

# Wildlife and Countryside Act 1981

### **1981 CHAPTER 69**

An Act to repeal and re-enact with amendments the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975; to prohibit certain methods of killing or taking wild animals; to amend the law relating to protection of certain mammals; to restrict the introduction of certain animals and plants; to amend the Endangered Species (Import and Export) Act 1976; to amend the law relating to nature conservation, the countryside and National Parks and to make provision with respect to the Countryside Commission; to amend the law relating to public rights of way; and for connected purposes. [30th October 1981]

### Modifications etc. (not altering text)

C1 Act amended (1.4.1996) by S.I. 1996/593, reg. 2, **Sch. 1**Act: certain functions transferred (E.W.) (19.9.1995) by 1995 c. 25, **ss. 69(1)**, 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

### PART I

### WILDLIFE

# Protection of birds

# 1 Protection of wild birds, their nests and eggs. E+W

- (1) Subject to the provisions of this Part, if any person intentionally—
  - (a) kills, injures or takes any wild bird;
  - [F1(aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;]
    - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
    - (c) takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person has in his possession or control—
  - (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,

he shall be guilty of an offence.

- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the bird or egg had not been killed or taken, or had been [F2 lawfully] killed or taken F3...; or
  - (b) the bird, egg or other thing in his possession or control had been [F4lawfully] sold (whether to him or any other person) F5...;

F6..

- [F7(3A) In subsection (3) " lawfully " means without any contravention of—
  - (a) this Part and orders made under it,
  - (b) the Protection of Birds Acts 1954 to 1967 F8 and orders made under those Acts.
  - (c) any other legislation which implements [F9the Wild Birds Directive] and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964 F10, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976 F11, and
  - (d) the provisions of the law of any member State (other than the United Kingdom) implementing [F12the Wild Birds Directive].]

- (5) Subject to the provisions of this Part, if any person intentionally [F14 or recklessly]—
  - (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
  - (b) disturbs dependent young of such a bird,

he shall be guilty of an offence<sup>F15</sup>....

- [F16(6) For the purposes of this section the definition of "wild bird in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme.
  - (6A) "Re-population" and "re-introduction" have the same meaning as in [F17 the Wild Birds Directive ].]
    - (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

# **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 S. 1(1)(aa) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 47(2),107; S.I. 2006/1382, art. 2

- F2 Word in s. 1(3)(a) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(a)(i)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(a)(i)
- F3 Words in s. 1(3)(a) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(a)(ii)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(a)(ii)
- F4 Word in s. 1(3)(b) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(b)(i)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(b)(i)
- F5 Words in s. 1(3)(b) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(b)(ii)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(b)(ii)
- Words in s. 1(3) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(c)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(c)
- F7 S. 1(3A) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(d)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), Sch. para. 1(d)
- **F8** 1954 c. 30; 1964 c. 59; 1967 c. 46.
- F9 Words in s. 1(3A)(c) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(2)(a)(i)
- **F10** 1964 c. 29.
- F11 1976 c. 86.
- F12 Words in s. 1(3A)(d) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(2)(a)(ii)
- F13 S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- **F14** Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6** para. 2(5); S.S.I. 2004/407, art. 2
- F15 Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- **F16** S. 1(6)(6A) substituted (E.W.) (1.10.2006) for s. 1(6) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 48(1),107; S.I. 2006/2541, art. 2
- F17 Words in s. 1(6A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(2)(b)

# 1 Protection of wild birds, their nests and eggs. S

- (1) Subject to the provisions of this Part, if any person intentionally [F536]or recklessly]—
  - (a) kills, injures or takes any wild bird;

- (b) takes, damages [F537, destroys or otherwise interferes with] the nest of any wild bird while that nest is in use or being built; or
- [F538(ba) at any other time takes, damages, destroys or otherwise interferes with any nest habitually used by any wild bird included in Schedule A1;
  - (bb) obstructs or prevents any wild bird from using its nest;]
  - (c) takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person has in his possession or control—
  - (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the bird or egg had not been killed or taken, or had been killed or taken [F539 at or from a place in Scotland] otherwise than in contravention of the relevant provisions; F540 . . .
  - (b) the bird, egg or other thing in his possession or control had been sold [F541 at a place in Scotland] (whether to him or any other person) otherwise than in contravention of those provisions; [F542]; or
  - (c) that the bird, egg or other thing in his possession or control had been killed at, taken from or sold at a place outwith Scotland and—
    - (i) that the act of killing, taking or sale would not, if it had been committed in Scotland, have been in contravention of the relevant provisions; or
    - (ii) that the bird, egg or other thing had been brought from the place where it was killed, taken or sold in accordance with the relevant regulations.]

F543

 $I^{F544}(3A)$  In subsection (3)—

- "the relevant provisions" means such of the provisions of—
- (a) the Protection of Birds Acts 1954 to 1967 and orders made under those Acts, and
- (b) this Part and orders made under it,

as were in force at the time when the bird or egg was killed or taken or, as the case may be, the bird, egg or other thing was sold,

- "the relevant regulations" means—
- (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade, and
- (b) Commission Regulation 1808/2001/EC on the implementation of that Council Regulation,

as amended from time to time (or any  $[^{\rm F127}{\rm EU}]$  instrument replacing either of them).]

(4	•)	FI3																

(5) Subject to the provisions of this Part, if any person intentionally [F14]or recklessly]—

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- (b) disturbs dependent young of such a bird, he shall be guilty of an offence<sup>F15</sup>....
- [F545(5A) Subject to the provisions of this Part, any person who intentionally or recklessly disturbs any wild bird included in Schedule 1 which leks while it is doing so shall be guilty of an offence.
  - (5B) Subject to the provisions of this Part, any person who intentionally or recklessly harasses any wild bird included in Schedule 1A shall be guilty of an offence.
  - (5C) 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 foregoing provisions of this section shall be guilty of an offence.]
    - (6) In this section "wild bird" does not include any bird which is shown to have been bred in captivity.
    - (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

### **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**

- F13 S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F14 Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(5); S.S.I. 2004/407, art. 2
- F15 Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- **F127** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- **F536** Words in s. 1(1) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(2)(a); S.S.I. 2004/407, art. 2
- **F537** Words in s. 1(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 2(2)(b)**; S.S.I. 2004/407, **art. 2**
- **F538** S. 1(1)(ba)(bb) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(2)(c); S.S.I. 2004/407, art. 2
- **F539** Words in s. 1(3)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 2(3)(a)**; S.S.I. 2004/407, **art. 2**
- **F540** Word in s. 1(3)(a) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 2(3)(b)**; S.S.I. 2004/407, **art. 2**
- **F541** Words in s. 1(3)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(c); S.S.I. 2004/407, art. 2
- **F542** S. 1(3)(c) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(d); S.S.I. 2004/407, art. 2

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- **F543** Words in s. 1(3) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(e); S.S.I. 2004/407, art. 2
- **F544** S. 1(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(4); S.S.I. 2004/407, art. 2
- **F545** S. 1(5A)-(5C) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(6); S.S.I. 2004/407, art. 2

# 2 Exceptions to s. 1. E+W

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of—
  - (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of a nest of such a bird; or
  - (c) the taking or destruction of an egg of such a bird.
- (3) Subsections (1) and (2) shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.
- (4) In this section and section 1 "close season" means—
  - (a) in the case of capercaillie and (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### **Extent Information**

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

### **Modifications etc. (not altering text)**

C2 S.2(6): Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

# 2 Exceptions to s. 1. S

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) <sup>F546</sup>......
- (3) [F547]Subsection (1)] shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.
- (4) In this section and section 1 "close season" means—
  - (a) in the case of [F548] capercaillie and] (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

### **Extent Information**

E31 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

**F546** S. 2(2) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 3(a); S.S.I. 2004/407, art. 2

**F547** Words in s. 2(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 3(b)**; S.S.I. 2004/407, **art. 2** 

F548 Words in s. 2(4)(a) omitted (S.) (4.11.2001) by virtue of S.S.I. 2001/337, reg. 2(2)

# 3 Areas of special protection. E+W

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
  - (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—
    - (i) kills, injures or takes any wild bird or any wild bird so specified;
    - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
    - (iii) takes or destroys an egg of such a bird;
    - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
    - (v) disturbs dependent young of such a bird,

shall be guilty of an offence under this section;

- (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
- (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, [F18 the offence shall be treated as falling within section 7(3A)].
- (2) An authorised person shall not by virtue of any such order be guilty of an offence by reason of—
  - (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of the nest of such a bird;
  - (c) the taking or destruction of an egg of such a bird; or
  - (d) the disturbance of such a bird or dependent young of such a bird.
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Secretary of State shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in his opinion impracticable, by advertisement in a newspaper circulating in the [F19]locality] in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—
  - (a) all the owners and occupiers aforesaid have consented thereto;

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
- (c) any such objections so made have been withdrawn.

### **Extent Information**

E3 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- F18 Words in s. 3(1)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 2
- **F19** Word in s. 3(4) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

# 3 Areas of special protection. S

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
  - (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally [F549] or recklessly]—
    - (i) kills, injures or takes any wild bird or any wild bird so specified;
    - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
    - (iii) takes or destroys an egg of such a bird;
    - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
    - (v) disturbs dependent young of such a bird,

shall be guilty of an offence under this section;

(b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;

(c)	F550	 
$(2)^{F551}$		 

- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Secretary of State shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in his opinion impracticable, by advertisement in a newspaper circulating in the [F552]locality] in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—
  - (a) all the owners and occupiers aforesaid have consented thereto;
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or

(c) any such objections so made have been withdrawn.

#### **Extent Information**

E32 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

- **F549** Words in s. 3(1)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 4(a); S.S.I. 2004/407, art. 2
- F550 S. 3(1)(c) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F551 S. 3(2) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 4(b); S.S.I. 2004/407, art. 2
- **F552** Word in s. 3(4) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

# 4 Exceptions to ss. 1 and 3. E+W

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
  - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the M1 Agriculture Act 1947, or by the Secretary of State under section 39 of the M2 Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the M3 Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule [F20] 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
  - (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [F21, fisheries or inland waters].

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [F22(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection (3)(c) unless he shows that as regards that purpose, there was no other satisfactory solution.
  - (5) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time for any purpose mentioned in that paragraph if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
    - (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
    - (b) an application by him for such a licence had been determined.
  - (6) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### **Extent Information**

**E4** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- **F20** Words in s. 4(1)(c) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 47(4)(a),107; S.I. 2006/1382, art. 2
- **F21** Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, reg. 2(1)
- F22 S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, reg. 2(2)

### **Marginal Citations**

M1 1947 c. 48.

M2 1948 c. 45.

**M3** 1981 c. 22.

# 4 Exceptions to ss. 1 and 3. S

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
  - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the MIAgriculture Act 1947, or by the Secretary of State under section 39 of the MIAgriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the M3 Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;

- (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by those provisions [F553] (an unlawful act if he shows that each of the conditions specified in subsection (2A) was satisfied in relation to the carrying out of the unlawful act.]

## [F554(2A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
- (b) that the person who carried out the lawful operation or other activity—
  - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
  - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
- (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild bird, nest or, as the case may be, egg in relation to which the unlawful act was carried out.]
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
  - (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [F21, fisheries or inland waters].
- [F22(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection [F555(3)] unless he shows that as regards that purpose, there was no other satisfactory solution.
  - (5) An authorised person shall not be entitled to rely on the defence provided by subsection [F556(3)] as respects any action taken at any time for any purpose mentioned in that [F557 subsection] if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
    - (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
    - (b) an application by him for such a licence had been determined.
  - (6) An authorised person shall not be entitled to rely on the defence provided by subsection [F558(3)] as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

### **Extent Information**

E33 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### **Textual Amendments**

- **F21** Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, reg. 2(1)
- F22 S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, reg. 2(2)
- **F553** Words in s. 4(2)(c) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 5(2); S.S.I. 2004/407, art. 2
- F554 S. 4(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 5(3); S.S.I. 2004/407, art. 2
- F555 Words in s. 4(4) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 5(4); S.S.I. 2004/407, art. 2
- **F556** Words in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 5(5)(a); S.S.I. 2004/407, art. 2
- **F557** Word in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(5)(b)**; S.S.I. 2004/407, **art. 2**
- **F558** Words in s. 4(6) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(6)**; S.S.I. 2004/407, **art. 2**

### **Marginal Citations**

- **M1** 1947 c. 48.
- **M2** 1948 c. 45.
- M3 1981 c. 22.

# 5 Prohibition of certain methods of killing or taking wild birds. E+W

- (1) Subject to the provisions of this Part, if any person—
  - (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses for the purpose of killing or taking any wild bird—
    - (i) any bow or crossbow;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting device for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
    - (viii) any chemical wetting agent;
  - (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; F23...
  - (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, I<sup>F24</sup>; or

Document Generated: 2024-04-24 provisions that are prospective.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]

he shall be guilty of an offence F25. . . .

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exerciseable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- F<sup>26</sup>[(4A) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]
  - (5) Nothing in subsection (1) shall make unlawful—
    - (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2;
    - (b) the use of nets for the purpose of taking wild duck in a duck decoy which is shown to have been in use immediately before the passing of the M4Protection of Birds Act 1954; or
    - (c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

### **Extent Information**

E5 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- **F23** Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 1(2), 3(3).
- **F24** Word "or" and s. 5(1)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(3)**, 3(3).
- F25 Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F26** S. 5(4A) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 1(4), 3(3).

### **Marginal Citations**

**M4** 1954 c. 30.

# 5 Prohibition of certain methods of killing or taking wild birds. S

- (1) Subject to the provisions of this Part, if any person
  - sets in position any of the following articles, being an article which is of such a nature and is so placed as to be [FSS9] ikely] to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses for the purpose of killing or taking any wild bird—
    - (i) any bow or crossbow;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting device for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
    - (viii) any chemical wetting agent;
  - (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; F23...
  - (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,  $I^{F24}$ ; or
  - (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]

he shall be guilty of an offence F25. . . .

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exerciseable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health,

agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

F<sup>26</sup>[(4A) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]

(5) Nothing		)S	ec	ti	01	n	(1	l)	S	h	al	l	n	ıa	k	e	u	n	la	ı	V	fi	ıŀ	-	
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(b)	F560																							 	

(c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

### **Extent Information**

E34 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

- **F23** Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 1(2), 3(3).
- **F24** Word "or" and s. 5(1)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 1(3), 3(3).
- **F25** Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**
- **F26** S. 5(4A) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 1(4), 3(3).
- **F559** Word in s. 5(1)(a) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 6(a)**; S.S.I. 2004/407, **art. 2**
- **F560** S. 5((5)(a)(b) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 6(b); S.S.I. 2004/407, art. 2

# 6 Sale etc. of live or dead wild birds, eggs etc. E+W

- (1) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person F27...

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from, such a wild bird; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
  - (a) any live wild bird other than a bird included in Part I of Schedule 3; or
  - (b) any live bird one of whose parents was such a wild bird,

he shall be guilty of an offence.

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- [F29(5) Any reference in this section to any bird included in Part 1 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 Secretary of State, and
  - (c) has not been lawfully released into the wild as part of a re-population or reintroduction programme.
  - (5A) "Re-population" and "re-introduction" have the same meaning as in  $[^{F30}$  the Wild Birds Directive ].
  - (5B) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.]
    - (6) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.

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### **Extent Information**

**E6** This version on this provision extends to England and Wales only; a separate version has been created for Scotland only.

### **Textual Amendments**

**F27** Words in s. 6(2) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 102, 103(2), Sch. 12 para. 3, Sch. 16 Pt. IV (with Sch. 12 para. 10(6))

- **F28** S. 6(4) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**
- **F29** S. 6(5)-(5B) substituted (E.W.) (1.10.2006) for s. 6(5) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 48(2), 107; S.I. 2006/2541, art. 2
- **F30** Words in s. 6(5A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(3)}
- **F31** S. 6(7)-(10) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))

# 6 Sale etc. of live or dead wild birds, eggs etc. S

- (1) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Secretary of State—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from, such a wild bird; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
  - (a) any live wild bird other than a bird included in Part I of Schedule 3; or
  - (b) any live bird one of whose parents was such a wild bird, he shall be guilty of an offence.

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(4)		•	٠	٠	٠	٠	٠	٠	٠	٠	٠	•	٠	٠	٠	٠	٠	٠	٠	٠	٠	٠	٠	•	٠	٠	٠	٠	٠	٠	٠	•

- (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 was bred in captivity and has been ringed or marked in accordance with regulations made by the Secretary of State; and regulations so made may make different provision for different birds or different provisions of this section.
- (6) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.
- (7) The power of the Secretary of State to make regulations under subsection (2) shall include power—

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- (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
- (b) to provide that any contravention of the regulations shall constitute such an offence.
- (8) Regulations under subsection (2) shall secure that no person shall become or remain registered [F561] within five years of his having been convicted of—
  - (a) an offence under this Part (being an offence relating to the protection of birds or other animals); or
  - (b) any other offence involving their ill-treatment,]

no account being taken for this purpose of a conviction which has become spent by virtue of the M60Rehabilitation of Offenders Act 1974.

- (8A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (2).
  - (9) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (10) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (9) shall be guilty of an offence.

### **Extent Information**

E35 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

### **Textual Amendments**

- **F28** S. 6(4) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**
- **F561** S. 6(8): paras. (a)(b) and preceding words substituted (S.) (26.3.2003) for paras. (a)(b) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 2**

### **Marginal Citations**

M60 1974. c. 53.

# 7 Registration etc. of certain captive birds. E+W

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence F32....
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
  - (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and

- (b) to make different provision for different birds or different descriptions of birds.
- [F33(2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]
  - (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4—
    - (a) within five years of his having been convicted of an offence under this Part [F34which falls within subsection (3A)]; or
    - (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,

he shall be guilty of an offence.

[F35(3A) The offences falling within this subsection are—

- (a) any offence under section 1(1) or (2) in respect of—
  - (i) a bird included in Schedule [F36ZA1 or] 1 or any part of, or anything derived from, such a bird,
  - (ii) the nest of such a bird, or
  - (iii) an egg of such a bird or any part of such an egg;
- (b) any offence under section 1(5) or 5;
- (c) any offence under section 6 in respect of—
  - (i) a bird included in Schedule [F36ZA1 or] 1 or any part of, or anything derived from, such a bird, or
  - (ii) an egg of such a bird or any part of such an egg;

[ any offence under subsection (1);]

F37(ca)

- (d) any offence under section 8.1
- (4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person—
  - (a) within five years of that person's having been convicted of such an offence as is mentioned in paragraph (a) of subsection (3); or
  - (b) within three years of that person's having been convicted of such an offence as is mentioned in paragraph (b) of that subsection,

he shall be guilty of an offence.

(5)	No account shall be taken for the purposes of subsections (3) and (4) of any conviction
	which has become spent for the purpose of the M5Rehabilitation of Offenders Act 1974.

F38(	6)																
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### **Extent Information**

E7 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### **Textual Amendments**

- **F32** Words in s. 7(1) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))
- **F33** S. 7(2A) inserted (21.3.1997) by 1997 c. 55, s. 1(2)
- F34 Words in s. 7(3)(a) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 4(1)
- F35 S. 7(3A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 4(2)
- F36 Words in s. 7(3A)(a)(i)(c)(i) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 47(4)(b), 107; S.I. 2006/1382, art. 2
- F37 S. 7(3A)(ca) inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 49, 107; S.I. 2006/2541, art. 2
- **F38** S. 7(6)(7) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))

### **Modifications etc. (not altering text)**

C3 S. 7(2A): power to transfer functions conferred (1.5.2000) by S.I. 2000/745, art. 2(1), Sch.

### **Marginal Citations**

M5 1974 c. 53.

# 7 Registration etc. of certain captive birds. S

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence F562....
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
  - (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - (b) to make different provision for different birds or different descriptions of birds.
- [F563 (2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]
  - (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4 [F564] within five years of his having been convicted of—
    - (a) an offence under this Part (being an offence relating to the protection of birds or other animals); F565 . . .
    - (b) any other offence involving their ill-treatment [F566; or
    - (c) any offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) relating to birds (other than an offence under Regulation 9 of those Regulations)

he shall be guilty of an offence.

(4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person[F567] within five years of that person's having been convicted of such an offence as is mentioned in subsection (3),] he shall be guilty of an offence.

- (5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the M61Rehabilitation of Offenders Act 1974.
- (6) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where any birds included in Schedule 4 are kept for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (6) shall be guilty of an offence.

### **Extent Information**

E36 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

- **F562** Words in s. 7(1) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), s. 86, **Sch.**
- **F563** S. 7(2A) inserted (21.3.1997) by 1997 c. 55, s. 1(2)
- **F564** S. 7(3): paras. (a)(b) and preceding words substituted (S.) (26.3.2003) for paras. (a)(b) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 2**
- **F565** Word in s. 7(3)(a) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 7(a)**; S.S.I. 2004/407, **art. 2**
- **F566** S. 7(3)(c) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 7(b); S.S.I. 2004/407, art. 2
- **F567** S. 7(4)(a)(b) substituted (S.) (26.3.2003) for words by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 3**

### **Modifications etc. (not altering text)**

C36 S. 7(2A): power to transfer functions conferred (1.5.2000) by S.I. 2000/745, art. 2(1), Sch.

### **Marginal Citations**

M61 1974 c. 53.

### 8 Protection of captive birds.

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence<sup>F39</sup>....
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—
  - (a) while that bird is in the course of conveyance, by whatever means;
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; or
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.
- (3) Every person who—

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- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
- (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,

shall be guilty of an offence<sup>F40</sup>....

#### **Textual Amendments**

- **F39** Words in s. 8(1) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- **F40** Words in s. 8(3) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5

### Protection of other animals

# 9 Protection of certain wild animals. E+W

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions and in this subsection "the relevant provisions" means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975
- [F41(4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—
  - (a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;
  - (b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
  - (c) he obstructs access to any structure or place which any such animal uses for shelter or protection.]
- [F42(4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—
  - (a) a dolphin or whale (cetacea), or
  - (b) a basking shark (cetorhinus maximus),

he shall be guilty of an offence.]

- (5) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

### **Extent Information**

**E8** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- **F41** S. 9(4) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(4)}
- **F42** S. 9(4A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 5(b)**

# 9 Protection of certain wild animals. S

- (1) Subject to the provisions of this Part, if any person intentionally [F568 or recklessly] kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the animal had not been killed or taken, or had been killed or taken [F569 at or from a place in Scotland] otherwise than in contravention of the relevant provisions; F570 . . .
  - (b) the animal or other thing in his possession or control had been sold [F571 at a place in Scotland] (whether to him or any other person) otherwise than in contravention of those provisions [F572; or
  - (c) that the animal or other thing in his possession or control had been killed at, taken from or sold at a place outwith Scotland and—
    - (i) that the act of killing, taking or sale would not, if it had been committed in Scotland, have been in contravention of the relevant provisions; or
    - (ii) that the animal or other thing had been brought from the place where it was killed, taken or sold in accordance with the relevant regulations.]

F573

# [F574(3A) In subsection (3)—

"the relevant provisions" means such of the provisions of the Conservation of Wild Creatures and Wild Plants Act 1975 (c. 48) and this Part as were in

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force at the time when the animal was killed or taken or, as the case may be, the animal or other thing was sold, and

- "the relevant regulations" means—
- (a) Council Regulation 338/97/ EC on the protection of species of wild fauna and flora by regulating trade, and
- (b) Commission Regulation 1808/2001/ EC on the implementation of that Council Regulation,

as amended from time to time (or any Community instrument replacing either of them).]

- (4) Subject to the provisions of this Part, if any person intentionally [F575] or recklessly]—
  - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or
  - (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,

he shall be guilty of an offence.

- [F576(4A) Subject to the provisions of this Part, any person who, intentionally or recklessly, disturbs or harasses any wild animal included in Schedule 5 as a—
  - (a) dolphin, whale or porpoise (cetacea); or
  - (b) basking shark (cetorhinus maximus),

shall be guilty of an offence.]

- (5) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

- [F577(5A) 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 foregoing provisions of this section (other than subsection (5)(b)) shall be guilty of an offence.]
  - (6) In any proceedings for an offence under subsection (1), (2) or (5)(a) [F578] or for an offence under subsection (5A) relating to an act which is mentioned in subsection (1), (2) or (5)(a)], the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

### **Extent Information**

E37 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

**F568** Word in s. 9(1) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(2); S.S.I. 2004/407, art. 2

**F569** Words in s. 9(3)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(a)**; S.S.I. 2004/407, **art. 2** 

- **F570** Word in s. 9(3)(a) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(b)**; S.S.I. 2004/407, **art. 2**
- **F571** Words in s. 9(3)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(c)**; S.S.I. 2004/407, **art. 2**
- **F572** S. 9(3)(c) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(3)(d); S.S.I. 2004/407, art. 2
- **F573** Words in s. 9(3) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(3)(e); S.S.I. 2004/407, art. 2
- F574 S. 9(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(4); S.S.I. 2004/407, art. 2
- **F575** Words in s. 9(4) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 5(a) and by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.** 8(5); S.S.I. 2004/407, art. 2
- **F576** S. 9(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(6)**; S.S.I. 2004/407, **art. 2**
- F577 S. 9(5A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(7); S.S.I. 2004/407, art. 2
- **F578** Words in s. 9(6) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(8); S.S.I. 2004/407, art. 2

# 10 Exceptions to s. 9. E+W

- (1) Nothing in section 9 shall make unlawful—
  - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the M6Agriculture Act 1947, or by the Secretary of State under section 39 of the M7Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the M8Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area

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of a dwelling house unless he had notified the [F43 conservation body][F44 for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
  - (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.

#### **Extent Information**

E9 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- **F43** Words in s. 10(5) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 70**; S.I. 2006/2541, **art. 2**
- **F44** Words in s. 10(5) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 11(2)**; S.I. 1991/685, **art.3**.

### **Marginal Citations**

**M6** 1947 c. 48.

**M7** 1948 c. 45.

M8 1981 c. 22.

# 10 Exceptions to s. 9. S

- (1) Nothing in section 9 shall make unlawful—
  - (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the M6Agriculture Act 1947, or by the Secretary of State under section 39 of the M7Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the M8Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section [F579 ("an unlawful act") if he shows—

- (i) that each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act, or
- (ii) that the unlawful act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.]

# [F580(3A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
- (b) that the person who carried out the lawful operation or other activity—
  - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
  - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
- (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild animal, or the damage or obstruction to the structure or place, in relation to which the unlawful act was carried out.]
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the [FSSI] conservation body [FSSI] for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
  - (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.
- [F582(6A) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time unless he notified the Scottish Ministers as soon as reasonably practicable after that time that he had taken the action.]

### **Extent Information**

E38 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### **Textual Amendments**

**F44** Words in s. 10(5) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, Sch. 9 para. 11(2); S.I. 1991/685, art.3.

F579 Words in s. 10(3)(c) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 9(a); S.S.I. 2004/407, art. 2

F580 S. 10(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 9(b); S.S.I. 2004/407, art. 2

F581 Words in s. 10(5) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 70**; S.I. 2006/2541, art. 2

F582 S. 10(6A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 9(c); S.S.I. 2004/407, art. 2

### **Marginal Citations**

**M6** 1947 c. 48.

**M7** 1948 c. 45.

**M8** 1981 c. 22.

#### 11 Prohibition of certain methods of killing or taking wild animals. E+W

- (1) Subject to the provisions of this Part, if any person
  - sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
  - uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm; F45 . . .
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, IF46; or
  - knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person
  - sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
  - uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or
  - uses for the purpose of killing or taking any such wild animal—
    - (i) any automatic or semi-automatic weapon;
    - (ii) any device for illuminating a target or sighting device for night shooting;
    - (iii) any form of artificial light or any mirror or other dazzling device; or
    - (iv) any gas or smoke not falling within paragraphs (a) and (b);
  - (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; F47 . . .

- (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, [F48]; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,]

he shall be guilty of an offence.

- (3) Subject to the provisions of this Part, if any person—
  - (a) sets in position [<sup>F49</sup>or knowingly causes or permits to be set in position] any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
  - (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,

he shall be guilty of an offence.

- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2)(b), (c), (d) or (e), [<sup>F50</sup> and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.
- [F51(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.]

### **Extent Information**

**E10** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

## **Textual Amendments**

- **F45** Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(2)(a), 3(3).
- **F46** Word "or" and s. 11(1)(d) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(2)(b), 3(3).
- **F47** Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(3)(a), 3(3).
- **F48** Word "or" and s. 11(2)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(3)(b), 3(3).

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- **F49** Words in s. 11(3)(a) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(4), 3(3).
- F50 Words in s. 11(5) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(5), 3(3).
- **F51** S. 11(7) added (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(6), 3(3).

# 11 Prohibition of certain methods of killing or taking wild animals. S

- (1) Subject to the provisions of this Part, if any person—
  - (a) sets in position [F583] or otherwise uses] any self-locking snare [F584] or a snare of any other type specified in an order made by the Scottish Ministers];
  - [F585(aa) sets in position or otherwise uses any other type of snare which is either of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it;]
    - (b) uses for the purpose of killing or taking any [F586animal], any bow or cross-bow or any explosive other than ammunition for a firearm; F45...
    - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever,  $I^{F46}$ ; or
    - (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person—
  - (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be [F587] likely] to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
  - (c) uses for the purpose of killing or taking any such wild animal—
    - (i) any automatic or semi-automatic weapon;
    - (ii) any device for illuminating a target or sighting device for night shooting;
    - (iii) any form of artificial light or any mirror or other dazzling device; or
    - (iv) any gas or smoke not falling within paragraphs (a) and (b);
  - (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; F47 . . .
  - (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, [F48]; or
  - (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,]

he shall be guilty of an offence.

[F588](3) Any person who sets a snare in position or who knowingly causes or permits a snare to be so set must, while it remains in position, inspect it or cause it to be inspected at least once every day at intervals of no more than 24 hours.

- (3A) Any person who, while carrying out such an inspection, finds an animal caught by the snare being inspected must, during the course of the inspection, release or remove the animal (whether live or dead).
- (3B) Subject to the provisions of this Part, any person who—
  - (a) without reasonable excuse, contravenes subsection (3), or
  - (b) contravenes subsection (3A),

shall be guilty of an offence.

- (3C) Subject to the provisions of this Part, any person who—
  - (a) is, without reasonable excuse, in possession of; or
  - (b) sells, or offers or exposes for sale,

a snare which is capable of operating as a self-locking snare or a snare of any other type specified in an order under subsection (1)(a) shall be guilty of an offence.

- (3D) Subject to the provisions of this Part, any person who, without reasonable excuse—
  - (a) while on any land, has in his possession any snare without the authorisation of the owner or occupier of the land; or
  - (b) sets any snare in position on any land without the authorisation of the owner or occupier of the land,

shall be guilty of an offence.

- (3E) Subject to the provisions of this Part, any person who uses a snare otherwise than in accordance with such requirements as may be specified in an order made by the Scottish Ministers, or who knowingly causes or permits any other person to do so, shall be guilty of an offence.]
  - (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- [F589(4A) The Scottish Ministers may by order specify—
  - (a) criteria which articles of a type referred to in subsections (1) to (3E) must meet to be treated as articles of that type for the purposes of those subsections,
  - (b) circumstances in which articles of that type are to be treated as having been set or used in a manner which constitutes an offence under those subsections.]
  - (5) In any proceedings for an offence under subsection [F590(1)(c)] or (2)(b), (c), (d) or (e), [F50] and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
  - (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.
  - F51 [(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health,

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agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.]

#### **Extent Information**

E39 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### **Textual Amendments**

- **F45** Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(2)(a), 3(3).
- **F46** Word "or" and s. 11(1)(d) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(2)(b), 3(3).
- **F47** Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(3)(a), 3(3).
- **F48** Word "or" and s. 11(2)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(3)(b)**, 3(3).
- **F50** Words in s. 11(5) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(5), 3(3).
- F51 S. 11(7) added (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), ss. 2(6), 3(3).
- **F583** Words in s. 11(1)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.10(2)(a)**; S.S.I. 2004/407, **art. 2**
- **F584** Words in s. 11(1)(a) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.10(2)(b)**; S.S.I. 2004/407, **art. 2**
- F585 S. 11(1)(aa) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.10(3); S.S.I. 2004/407, art. 2
- **F586** Words in s. 11(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.10(4); S.S.I. 2004/407, art. 2
- **F587** Word in s. 11(2)(a) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.10(5)**; S.S.I. 2004/407, **art. 2**
- **F588** S. 11(3)-(3E) substituted (S.) (1.10.2004) for s. 11(3) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.10(6)**; S.S.I. 2004/407, **art. 2**
- **F589** S. 11(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.10**(7); S.S.I. 2004/407, **art. 2**
- **F590** Words in s. 11(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.10(8); S.S.I. 2004/407, art. 2

### 12 Protection of certain mammals.

Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.

# Protection of plants

### 13 Protection of wild plants. E+W

(1) Subject to the provisions of this Part, if any person—

Document Generated: 2024-04-24 provisions that are prospective.

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- (a) intentionally picks, uproots or destroys any wild plant included in Schedule 8; or
- (b) not being an authorised person, intentionally uproots any wild plant not included in that Schedule,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.
- (4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

### **Extent Information**

E11 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

# 13 Protection of wild plants. S

- (1) Subject to the provisions of this Part, if any person—
  - (a) intentionally [F591] or recklessly] picks, uproots or destroys [F592(i)] any wild plant included in Schedule 8; or
  - [F593(ii) any seed or spore attached to any such wild plant; or]
    - (b) not being an authorised person, intentionally [F594] or recklessly] uproots any wild plant not included in that Schedule,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection [F595 ("an unlawful act") if he shows—
  - (a) that the unlawful act was the incidental result of a lawful operation or other activity;
  - (b) that the person who carried out the lawful operation or other activity—

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- (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
- (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
- (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent, such steps as were reasonably practicable in the circumstances to minimise the damage to the wild plant in relation to which the unlawful act was carried out.]
- [F596(3A) 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 foregoing provisions of this section shall be guilty of an offence.]
  - (4) In any proceedings for an offence under subsection (2)(a) [F597] or for an offence under subsection (3A) relating to an act which is mentioned in subsection (2)(a)], the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

### **Extent Information**

**E40** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

# **Textual Amendments**

- **F591** Words in s. 13(1)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 11(2)(a)**; S.S.I. 2004/407, **art. 2**
- **F592** Words in s. 13(1)(a) renumbered (S.) (1.10.2004) as s. 13(1)(a)(i) by virtue of Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 11(2)(b); S.S.I. 2004/407, art. 2
- **F593** S. 13(1)(a)(ii) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 11(2)(c); S.S.I. 2004/407, art. 2
- **F594** Words in s. 13(1)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 11(3)**; S.S.I. 2004/407, **art. 2**
- **F595** Words in s. 13(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 11(4)**; S.S.I. 2004/407, **art. 2**
- **F596** S. 13(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 11(5); S.S.I. 2004/407, art. 2
- **F597** Words in s. 13(4) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 11(6); S.S.I. 2004/407, art. 2

### Miscellaneous

# 14 Introduction of new species etc. E+W

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—
  - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
  - (b) is included in Part I of Schedule 9.

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(5)	F52																
(6)	F52																

#### **Extent Information**

**E12** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

F52 S. 14(5)(6) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV

### **Modifications etc. (not altering text)**

- C4 S. 14 excluded (E.W.) (21.8.2007) by S.I. 1994/2716, **reg. 37C(9)** (as inserted by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 5(12)}
- C5 S. 14 excluded (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **52(8)**

# 14 Introduction of new species etc. S

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—
  - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
  - (b) is [F598a hybrid of any animal of that kind],

he shall be guilty of an offence.

- [F599(1A) Subject to the provisions of this Part, if any person releases or allows to escape from captivity any animal which is—
  - (a) included in Part I of Schedule 9; or
  - (b) a hybrid of any animal included in that Part,

he shall be guilty of an offence.]

- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is
  - [F600(a)] included in Part II of Schedule 9 [F601; or
    - (b) a hybrid of any plant included in that Part]

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## he shall be guilty of an offence

- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.
- (5) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.
- (6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

## **Extent Information**

**E41** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

**F598** Words in s. 14(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.12(a); S.S.I. 2004/407, art. 2

**F599** S. 14(1A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.12(b); S.S.I. 2004/407, art. 2

**F600** Words in s. 14(2) renumbered (S.) (1.10.2004) as s. 14(2)(a) by virtue of Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para.12(c)(i); S.S.I. 2004/407, art. 2

**F601** S. 14(2)(b) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.12(c)(ii)**; S.S.I. 2004/407, **art. 2** 

## [F5314ZASale etc. of invasive non-native species

- (1) Subject to the provisions of this Part, a person is guilty of an offence if he sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale—
  - (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (2) Subject to the provisions of this Part, a person is guilty of an offence if he publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell—
  - (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (3) This section applies to an animal or plant which—

Document Generated: 2024-04-24 s provisions that are prospective.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) is within section 14(1) or (2) (animals and plants which must not be released etc. into the wild),
- (b) is of a description prescribed for the purposes of this section by an order made by the Secretary of State, and
- (c) is a live animal or live plant.
- (4) An order under subsection (3) may be made in relation to a particular area or a particular time of the year.
- (5) Subsections (3) and (4) of section 14 (defence of due diligence etc.) apply to an offence under this section as they apply to an offence under that section.]

## **Textual Amendments**

F53 S. 14ZA inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 50, 107; S.I. 2006/2541, art. 2

# [F5414ZBCodes of practice in connection with invasive non-native species

- (1) The Secretary of State may issue or approve a code of practice relating to—
  - (a) animals which are not ordinarily resident in and are not regular visitors to Great Britain in a wild state,
  - (b) animals or plants included in Schedule 9, or
  - (c) any description of animals or plants mentioned in paragraph (a) or (b).
- (2) The Secretary of State may revise or replace a code or approve its revision or replacement.
- (3) The Secretary of State must ensure that a code is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it.
- (4) A person's failure to comply with a provision of a code does not make him liable to criminal or civil proceedings.
- (5) A code—
  - (a) is admissible in evidence in any proceedings, and
  - (b) must be taken into account by a court in any case in which it appears to the court to be relevant.]

## **Textual Amendments**

F54 S. 14ZB inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 51, 107; S.I. 2006/2541, art. 2

# [F5514A Prohibition on sale etc. of certain animals or plants

- (1) This section applies to—
  - (a) any animal of a type mentioned in subsection (1) or (1A) of section 14 specified in an order made by the Scottish Ministers for the purposes of this section; and
  - (b) any plant—

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- (i) which does not ordinarily grow in Great Britain in a wild state or which is a hybrid of such a plant; or
- (ii) of a type mentioned in subsection (2) of section 14, specified in such an order.
- (2) Subject to the provisions of this Part, any person who—
  - (a) sells, offers or exposes for sale or has in the person's possession or transports for the purpose of sale any animal or plant to which this section applies; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant,

is guilty of an offence.

- (3) An order under subsection (1) may specify particular types of animals or plants—
  - (a) subject to such exceptions;
  - (b) only at such times of the year;
  - (c) only in relation to such areas,

as the order may specify.

## **Textual Amendments**

F55 Ss. 14A, 14B inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 13; S.S.I. 2004/407, art. 2

## 14B Guidance: non-native species

- (1) The Scottish Ministers may issue guidance (or approve guidance issued by others) for the purpose of providing persons with recommendations, advice and information regarding—
  - (a) any animal of a type mentioned in subsection (1) or (1A) of section 14.
  - (b) any plant of a type mentioned in subsection (2) of that section or specified in an order under section 14A(1)(b)(i),

and may issue revisions of any guidance issued by them (or approve revisions of guidance issued by others).

- (2) A person who fails to comply with any guidance issued or approved under subsection (1) is not by reason only of that failure liable in any criminal or civil proceedings.
- (3) But any such guidance is admissible in evidence in such proceedings and a court may take account of any failure to comply with it in determining any questions in the proceedings.]

#### **Textual Amendments**

F55 Ss. 14A, 14B inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 13; S.S.I. 2004/407, art. 2

## 15 Endangered species (import and export).

- X1(1) The M9Endangered Species (Import and Export) Act 1976 shall have effect subject to the amendments provided for in Schedule 10; and in that Schedule "the 1976 Act" means that Act.
  - (2) The functions of the [F56GB conservation bodies] shall include power to advise or assist—
    - (a) any constable;
    - (b) any officer commissioned or other person appointed or authorised by the Commissioners of Customs and Excise to exercise any function conferred on the Commissioners by the said Act of 1976; or
    - (c) any person duly authorised by the Secretary of State under section 7(3) of that Act,

in, or in connection with, the enforcement of that Act or any order made under it.

#### **Editorial Information**

X1 The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### **Textual Amendments**

**F56** Words in s. 15(2) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 71; S.I. 2006/2541, art. 2

## **Marginal Citations**

**M9** 1976 c. 72.

## [F5715A Possession of pesticides

- (1) Any person who is in possession of any pesticide containing one or more prescribed active ingredient shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) if the person shows that the possession of the pesticide was for the purposes of doing anything in accordance with—
  - (a) any regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c. 48), or
  - (b) the Biocidal Products Regulations 2001 (S.I. 2001/880) or any regulations replacing those regulations.
- (3) In this section—

"pesticide" has the meaning given in the Food and Environment Protection Act 1985 (c. 48), and

"prescribed active ingredient" means an ingredient of a pesticide which fits it for use as such and which is of a type prescribed by order made by the Scottish Ministers.]

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#### **Textual Amendments**

F57 S. 15A inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 14; S.S.I. 2004/407, art. 2

## Supplemental

## 16 Power to grant licences. E+W

- (1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—
  - F58(a) for scientific, research or educational purposes;
    - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
    - (c) for the purpose of conserving wild birds;
  - [F59(ca) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
    - (cb) for the purpose of conserving flora or fauna;
    - (d) for the purpose of protecting any collection of wild birds;
    - (e) for the purposes of falconry or aviculture;
    - (f) for the purposes of any public exhibition or competition;
    - (g) for the purposes of taxidermy;
    - (h) for the purpose of photography;
    - (i) for the purposes of preserving public health or public or air safety;
    - (i) for the purpose of preventing the spread of disease; or
    - (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber [F60, fisheries or inland waters],

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

## [<sup>F61</sup>(1A) The appropriate authority—

- (a) shall not grant a licence for any purpose mentioned in subsection (1) unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; and
- (b) shall not grant a licence for any purpose mentioned in paragraphs (e) to (h) of that subsection otherwise than on a selective basis and in respect of a small number of birds.]
- (2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to—
  - (a) a gannet on the island of Sula Sgeir; or
  - (b) a gull's egg or, at any time before 15th April in any year, a lapwing's egg, if it is done under and in accordance with the terms of a licence granted by the appropriate authority.
- (3) Sections 9(1), (2) [<sup>F62</sup>, (4) and (4A)], 11(1) and (2) and 13(1) do not apply to anything done—
  - (a) for scientific or educational purposes;

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- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
- (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas;
- (d) for the purpose of protecting any zoological or botanical collection;
- (e) for the purpose of photography;
- (f) for the purpose of preserving public health or public safety;
- (g) for the purpose of preventing the spread of disease; or
- (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (4) The following provisions, namely—
  - (a) section 6(1) and (2);
  - (b) sections 9(5) and 13(2); and
  - (c)  $I^{F63}$  sections 14 and 14ZA],

do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

- (5) Subject to [F64subsections (5A) and (6)], a licence under the foregoing provisions of this section—
  - (a) may be, to any degree, general or specific;
  - (b) may be granted either to persons of a class or to a particular person;
  - (c) may be subject to compliance with any specified conditions;
  - (d) may be modified or revoked at any time by the appropriate authority; and
  - (e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.

- [F65(5A) A licence under subsection (1) which authorises any action in respect of wild birds—
  - (a) shall specify the species of wild birds in respect of which, the circumstances in which, and the conditions subject to which, the action may be taken;
  - (b) shall specify the methods, means or arrangements which are authorised or required for the taking of the action; and
  - (c) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.]
  - (6) A licence under subsection [F66(2) or (3)] which authorises any person to kill wild birds or wild animals—
    - (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
    - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
  - (7) It shall be a defence in proceedings for an offence under section 8(b) of the MII Protection of Animals Act 1911 or section 7(b) of the MII Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisonous substances) to show that—

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- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and
- (b) any conditions specified in the licence were complied with.
- (8) For the purposes of a licence granted under the foregoing provisions of this section, 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.
- [F67(8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), "the appropriate authority" means the Marine Management Organisation.
  - (9) [F68 Except as provided by subsection (8A),] In this section "the appropriate authority" means—
    - (a) in the case of a licence under [F69] any of paragraphs (a) to (cb)] of subsection (1), either the Secretary of State after consultation with whichever one of the advisory bodies he considers is best able to advise him as to whether the licence should be granted, or the [F70] relevant [F71] conservation body];
    - (b) in the case of a licence under any of paragraphs (d) to (g) of subsection (1), subsection (2) or paragraph (a) or (b) of subsection (4), the Secretary of State after such consultation as aforesaid;
    - (c) in the case of a licence under paragraph (h) of subsection (1) or any of paragraphs (a) to (e) of subsection (3), the [F70 relevant][F71 conservation body];
    - (d) in the case of a licence under paragraph (i), (j) or (k) of subsection (1) or paragraph (f), (g) or (h) of subsection (3) or a licence under paragraph (c) of subsection (4) which authorises anything to be done in relation to fish or shellfish, the agriculture Minister; and
    - (e) in the case of any other licence under paragraph (c) of subsection (4), the Secretary of State.
- [F72(9A) In this section "re-population" and "re-introduction", in relation to wild birds, have the same meaning as in [F73the Wild Birds Directive].]
  - (10) The agriculture Minister—
    - (a) shall from time to time consult with [F74each of the [F75GB conservation bodies]] as to the exercise [F76in the area of that [F77body]] of his functions under this section; and
    - (b) shall not grant a licence of any description unless he has been advised by the [F78 relevant [F71 conservation body]] as to the circumstances in which, in their opinion, licences of that description should be granted.
- [F79(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the [F71conservation body] for the area in which it is proposed to carry on the activity requiring a licence.]

## I<sup>F80</sup>(12) In this section—

- (a) "the restricted English inshore region" means so much of the English inshore region as lies to seaward of mean low water mark;
- (b) "the English inshore region" has the meaning given by section 322 of the Marine and Coastal Access Act 2009.]

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#### **Extent Information**

**E13** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

## **Textual Amendments**

- **F58** S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(a)
- **F59** S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(b)
- **F60** Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(c)
- **F61** S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(3)
- F62 Words in s. 16(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 6
- **F63** Words in s. 16(4) substituted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(2); S.I. 2006/2541, art. 2
- **F64** Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(4)
- **F65** S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(5)
- **F66** Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**
- **F67** S. 16(8A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2
- **F68** Words in s. 16(9) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 10(3)(5), 324(3); S.I. 2010/298, art. 2, Sch. Pt. 1 para. 2
- **F69** Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(7)
- F70 Word in s. 16(9) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1) (a), Sch. 9 para. 11(4)(a); S.I. 1991/685, art. 3
- F71 Words in s. 15(9)(a)(c)(10)(b)(11) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(3); S.I. 2006/2541, art. 2
- F72 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(8)
- F73 Words in s. 16(9A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(5)
- F74 Words in s. 16(10)(a) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(4)(b); S.I. 1991/685, art. 3
- F75 Words in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(4)(a); S.I. 2006/2541, art. 2
- F76 Words in s. 16(10)(a) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(4)(b); S.I. 1991/685, art. 3
- F77 Word in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(4)(b); S.I. 2006/2541, art. 2
- F78 Words in s. 16(10)(b) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(4)(c); S.I. 1991/685, art. 3
- F79 S. 16(11) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(4)(d); S.I. 1991/685, art. 3
- **F80** S. 16(12) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(4)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

## **Modifications etc. (not altering text)**

C6 S. 16: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

## **Marginal Citations**

M10 1911 c. 27.

M11 1912 c. 14.

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# 16 Power to grant licences. S

- (1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—
  - <sup>602</sup>(a) for scientific, research or educational purposes;]
    - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
    - (c) for the purpose of conserving wild birds;
- [F603] for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
  - (cb) for the purpose of conserving flora or fauna;
  - (d) for the purpose of protecting any collection of wild birds;
  - (e) for the purposes of falconry or aviculture;
  - (f) for the purposes of any public exhibition or competition;
  - (g) for the purposes of taxidermy;
  - (h) for the purpose of photography;
  - (i) for the purposes of preserving public health or public or air safety;
  - (j) for the purpose of preventing the spread of disease; or
  - (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber [F604, fisheries or inland waters],

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

## [F605(1A) The appropriate authority—

- (a) shall not grant a licence for any purpose mentioned in subsection (1) unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; and
- (b) shall not grant a licence for any purpose mentioned in paragraphs (e) to (h) of that subsection otherwise than on a selective basis and in respect of a small number of birds.]
- (2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to—
  - (a) a gannet on the island of Sula Sgeir; or
  - (b) a gull's egg <sup>F606</sup>...,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (3) Sections 9(1), (2)  $[^{F607}$ , (4) and (4A)], 11(1)  $[^{F608}$ , (2) and (3C)(a)] and 13(1) do not apply to anything done—
  - (a) for scientific [<sup>F609</sup>, research] or educational purposes;
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
  - (c) for the purpose of conserving [F610 wild birds,] wild animals or wild plants or introducing them to particular areas;
- [F611(ca) for the purpose of conserving any area of natural habitat;]
  - (d) for the purpose of protecting any zoological or botanical collection;
  - (e) for the purpose of photography;
  - (f) for the purpose of preserving public health or public safety;

- (g) for the purpose of preventing the spread of disease; or
- (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (4) The following provisions, namely—
  - (a) section 6(1) and (2);
  - (b) sections 9(5) and 13(2); and
  - (c)  $[^{\text{F612}}$  sections 14 and 14A],

do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

- [F613(4A) The appropriate authority shall not grant a licence under subsection (4) permitting anything to be done in contravention of section 6(1) or (2) unless it is satisfied that there is no other satisfactory solution.]
  - (5) Subject to [F614subsections (5A) and (6)], a licence under the foregoing provisions of this section—
    - (a) may be, to any degree, general or specific;
    - (b) may be granted either to persons of a class or to a particular person;
    - (c) may be subject to compliance with any specified conditions;
    - (d) may be modified or revoked at any time by the appropriate authority; and
    - (e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.

- [F615(5A) A licence under subsection (1) which authorises any action in respect of wild birds—
  - (a) shall specify the species of wild birds in respect of which, the circumstances in which, and the conditions subject to which, the action may be taken;
  - (b) shall specify the methods, means or arrangements which are authorised or required for the taking of the action; and
  - (c) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.]
  - (6) A licence under subsection [F616(2) or (3)] which authorises any person to kill wild birds or wild animals—
    - (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
    - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
  - (7) It shall be a defence in proceedings for an offence under section 8(b) of the M62Protection of Animals Act 1911 or section 7(b) of the M63Protection of Animals (Scotland) Act 1912 (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 issued under subsection (1) or (3); and
    - (b) any conditions specified in the licence were complied with.

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- (8) For the purposes of a licence granted under the foregoing provisions of this section, 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.
- [<sup>F67</sup>(8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), "the appropriate authority" means the Marine Management Organisation.]
- [F617(8B) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the Scottish marine area, "the appropriate authority" means the Scottish Ministers. I
  - (9) [F618 Except as provided by subsection (8B)][F68 Except as provided by subsection (8A),] in this section "the appropriate authority" means—
    - (a) in the case of a licence under [F619] any of paragraphs (a) to (cb)] of subsection (1), either the Secretary of State after consultation with whichever one of the advisory bodies he considers is best able to advise him as to whether the licence should be granted, or the [F620] relevant [F621] conservation body];
    - (b) in the case of a licence under any of paragraphs (d) to (g) of subsection (1), subsection (2) or paragraph (a) or (b) of subsection (4), the Secretary of State after such consultation as aforesaid;
    - (c) in the case of a licence under paragraph (h) of subsection (1) or any of paragraphs (a) to (e) of subsection (3), the [F620] relevant][F621] conservation body];
    - (d) in the case of a licence under paragraph (i), (j) or (k) of subsection (1) or paragraph (f), (g) or (h) of subsection (3) or a licence under paragraph (c) of subsection (4) which authorises anything to be done in relation to fish or shellfish, the agriculture Minister; and
    - (e) in the case of any other licence under paragraph (c) of subsection (4), the Secretary of State.
- [F622(9ZA) The Scottish Ministers may by direction delegate their power to grant licences in relation to the Scottish marine area under any of subsections (1) to (4) to Scottish Natural Heritage.
  - (9ZB) Delegation under subsection (9ZA) may be—
    - (a) in relation to a specific case,
    - (b) in relation to specific species of animal,
    - (c) in relation to a particular type of licence,
    - (d) in relation to a particular area.
  - (9ZC) A direction under subsection (9ZA) must be in writing.]
  - [F623(9A) In this section "re-population" and "re-introduction", in relation to wild birds, have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 (No. 79/409/ EEC ) on the conservation of wild birds.]
    - (10) The agriculture Minister—
      - (a) shall from time to time consult with [F624each of the [F625GB conservation bodies]] as to the exercise [F626in the area of that [F627body]] of his functions under this section; and

(b) shall not grant a licence of any description unless he has been advised by the [F628 relevant [F621 conservation body]] as to the circumstances in which, in their opinion, licences of that description should be granted.

[F629(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the [F621 conservation body] for the area in which it is proposed to carry on the activity requiring a licence.]

[F80(12) In this section—

- (a) "the restricted English inshore region" means so much of the English inshore region as lies to seaward of mean low water mark;
- (b) "the English inshore region" has the meaning given by section 322 of the Marine and Coastal Access Act 2009.

[F630(13) In this section, the "Scottish marine area" has the meaning given by section 1(1) of the Marine (Scotland) Act 2010 (asp 5).]

#### **Extent Information**

E42 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F67** S. 16(8A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2
- **F68** Words in s. 16(9) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(3)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2
- F80 S. 16(12) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 10(4)(5), 324(3); S.I. 2010/298, art. 2, Sch. Pt. 1 para. 2
- **F602** S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(a)
- **F603** S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(b)
- **F604** Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(2)(c)
- **F605** S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(3)
- **F606** Words in s. 16(2)(b) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 15(a); S.S.I. 2004/407, art. 2
- **F607** Words in s. 16(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 15(b)(i); S.S.I. 2004/407, art. 2
- **F608** Words in s. 16(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(ii)**; S.S.I. 2004/407, **art. 2**
- **F609** Words in s. 16(3)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 15(b)(iii); S.S.I. 2004/407, art. 2
- **F610** Words in s. 16(3)(c) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(iv)**; S.S.I. 2004/407, **art. 2**
- **F611** S. 16(3)(ca) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(v)**; S.S.I. 2004/407, **art. 2**
- **F612** Words in s. 16(4) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(c)**; S.S.I. 2004/407, **art. 2**
- **F613** S. 16(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(d)**; S.S.I. 2004/407, **art. 2**
- **F614** Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(4)
- **F615** S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(5)
- **F616** Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(6)

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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F617 S. 16(8B) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 104(2), 168(1) (with s.
        162); S.S.I. 2010/230, art. 2(b)
 F618 Words in s. 16(9) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 104(3), 168(1)
        (with s. 162); S.S.I. 2010/230, art. 2(b)
 F619 Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, reg. 3(7)
 F620 Word in s. 16(9) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)
        (a), Sch. 9 para. 11(4)(a); S.I. 1991/685, art. 3
 F621 Words in s. 16(9)(a)(c)(10)(b)(11) substituted (1.10.2006) by Natural Environment and Rural
        Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(3), S.I. 2006/2541, art. 2
 F622 S. 16(9ZA)-(9ZC) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 104(4), 168(1)
        (with s. 162); S.S.I. 2010/230, art. 2(b)
 F623 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, reg. 3(8)
 F624 Words in s. 16(10)(a) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s.
        132(1)(a), Sch. 9 para. 11(4)(b); S.I. 1991/685, art. 3
 F625 Words in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act
        2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(4)(a); S.I. 2006/2541, art. 2
 F626 Words in s. 16(10)(a) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s.
        132(1)(a), Sch. 9 para. 11(4)(b); S.I. 1991/685, art. 3
 F627 Word in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act
        2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 72(4)(b); S.I. 2006/2541, art. 2
 F628 Words in s. 16(10)(b) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s.
        132(1)(a), Sch. 9 para. 11(4)(c); S.I. 1991/685, art. 3
 F629 S. 16(11) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a),
        Sch. 9 para. 11(4)(d); S.I. 1991/685, art. 3
 F630 S. 16(13) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 104(5), 168(1) (with s.
        162); S.S.I. 2010/230, art. 2(b)
Modifications etc. (not altering text)
 C37 S. 16: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1
Marginal Citations
 M62 1911 c. 27.
 M63 1912 c. 14.
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# 17 False statements made for obtaining registration or licence etc.

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section [F816(2) or] 7(1) or the grant of a licence under section 16—

- (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,

shall be guilty of an offence.

#### **Textual Amendments**

**F81** Words in s. 17 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** 

## 18 Attempts to commit offences etc.

- (1) Any person who attempts to commit an offence under the foregoing provisions of this Part shall be guilty of an offence and shall be punishable in like manner as for the said offence.
- (2) Any person who for the purposes of committing an offence under the foregoing provisions of this Part, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in like manner as for the said offence.

## [F82 18A Wildlife inspectors

- (1) In this Part, "wildlife inspector" means a person authorised in writing under this section by—
  - (a) the Secretary of State (in relation to England), or
  - (b) the National Assembly for Wales (in relation to Wales).
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.
- (4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.

## **Textual Amendments**

**F82** Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 1; S.I. 2006/1382, art. 2

## **Modifications etc. (not altering text)**

C7 S. 18A applied (with modifications) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 7-11; S.I. 2006/1382, art. 2

## 18B Group 1 offences and licences: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
  - (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;
  - (b) for the purpose of—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or
    - (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.
- (2) In this Part—
  - "Group 1 offence" means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and

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- "Group 1 licence" means a licence authorising anything which would otherwise be a Group 1 offence.
- (3) Nothing in this section confers power to enter a dwelling.

#### **Textual Amendments**

F82 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 1; S.I. 2006/1382, art. 2

#### **Modifications etc. (not altering text)**

C8 S. 18B applied (with modifications) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 7-11; S.I. 2006/1382, art. 2

## 18C Group 1 offences and licences: examining specimens and taking samples

- (1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).
- (2) The inspector, or a veterinary surgeon accompanying him, may—
  - (a) for any such purpose, examine any specimen, and
  - (b) subject to subsection (5) and section 18F, take a sample from it.
- (3) "Specimen" means—
  - (a) any bird, other animal or plant, or
  - (b) any part of, or anything derived from, a bird, other animal or plant.
- (4) "Sample" means a sample of blood, tissue or other biological material.
- (5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.
- (6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—
  - (a) making an examination under subsection (2)(a), or
  - (b) taking a sample under subsection (2)(b).
- (7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

## **Textual Amendments**

**F82** Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2** 

## **Modifications etc. (not altering text)**

C9 S. 18C applied (with modifications) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 7-11; S.I. 2006/1382, art. 2

## 18D Group 2 offences and licences etc. : power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
  - (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
  - (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  - (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
  - (d) for the purpose of—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
    - (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

## (2) In this Part—

- "Group 2 offence" means an offence under section 6, 7, 9(5), 13(2) or 14,
- "Group 2 licence" means a licence authorising anything which would otherwise be a Group 2 offence, and
- "relevant registration" means a registration in accordance with regulations under section 7(1).

## (3) In subsection (1)—

- (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
  - (i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or
  - (ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and
- (b) paragraph (c) does not confer any power to enter a dwelling.

#### **Textual Amendments**

**F82** Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2** 

## 18E Group 2 offences: examining specimens and taking samples

- (1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.
- (2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.

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- (3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (the relevant specimen), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—
  - (a) is alleged to be, or
  - (b) which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (4) Where, pursuant to a requirement under this section—
  - (a) a bird or other animal is to be examined, or
  - (b) a sample is to be taken from a bird or other animal,
  - a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.
- (5) "Specimen" and "sample" have the same meaning as in section 18C.
- (6) This section is subject to section 18F.

#### **Textual Amendments**

F82 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 1; S.I. 2006/1382, art. 2

## 18F Restrictions on taking of samples from live specimens

- (1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.
- (2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.]

## **Textual Amendments**

**F82** Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2** 

## **Modifications etc. (not altering text)**

C10 S. 18F applied (with modifications) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 7-11; S.I. 2006/1382, art. 2

## 19 Enforcement. E+W

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
  - (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;

- (b) search or examine any thing which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;
- (c) F83.....
- (d) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing [F84] or has committed] an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) [F85] or arresting a person, in accordance with [F86] section 24] of Police and Criminal Evidence Act 1984, for such an offence], [F87] enter any premises other than a dwelling].
- [F88(2A) A constable may, for the purpose of assisting him in exercising the powers conferred by subsection (1)(b) and (d) when he has entered any premises under subsection (2), take with him—
  - (a) any other person, and
  - (b) any equipment or materials.
  - (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for [F89] suspecting that an offence under this Part has been committed] and that evidence of the offence may be found on any premises, he may grant a warrant to any constable F90... to enter upon and search those premises for the purpose of obtaining that evidence.

In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.

#### **Extent Information**

**E14** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

## **Textual Amendments**

- F83 S. 19(1)(c) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), Sch. 7 Pt. I
- **F84** Words in s. 19(2) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 2(2)(a); S.I. 2006/1382, art. 2
- F85 Words inserted (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), Sch. 6 para. 25
- **F86** Words in s. 19(2) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, Sch. 7 para. 56 (subject to art. 2(2)); S.I. 2005/3495, art. 2(1)(m)
- **F87** Words in s. 19(2) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 2(2)(b); S.I. 2006/1382, art. 2
- **F88** S. 19(2A) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 2(3)**; S.I. 2006/1382, **art. 2**
- F89 Words in s. 19(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 7
- F90 Words in s. 19(3) omitted (E.W.) (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 2(4) and repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107, Sch. 12; S.I. 2006/1382, art. 2; S.I. 2006/2541, art. 2

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## **Modifications etc. (not altering text)**

C11 S. 19(3) applied (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 13; S.I. 2006/1382, art. 2

## 19 Enforcement. S

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
  - (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
  - (b) [F631] search for,] search or examine any thing which that person may then be using or [F632] may have used, or may have or have had in his possession,] if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found [F633] in or] on that thing;
  - (c) arrest that person <sup>F634</sup>...;
  - (d) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing [F635 or has committed] an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1), enter any land other than a [F636 dwelling or lockfast premises].
- (3) If a justice of the peace is satisfied by [F637 evidence] on oath that there are reasonable grounds for suspecting that [F638 an offence under this Part] has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable [F639 to enter those premises, if necessary using reasonable force, and search them] for the purpose of obtaining that evidence.
  - In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.
- [F640(4) A warrant under subsection (3) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.
  - (5) A constable authorised by virtue of this section to enter any land must, if required to do so by the occupier or anyone acting on the occupier's behalf, produce evidence of the constable's authority.
  - (6) A constable who enters any land in the exercise of a power conferred by this section—
    - (a) may—
      - (i) be accompanied by any other persons, and
      - (ii) take any machinery, other equipment or materials on to the land, for the purpose of assisting the constable in the exercise of that power,
    - (b) may take samples of any articles or substances found there and remove the samples from the land.
  - (7) A power specified in subsection (6)(a) or (b) which is exercisable under a warrant is subject to the terms of the warrant.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(8) A constable leaving any land which has been entered in exercise of a power conferred by subsection (2) or by a warrant under subsection (3), being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.]

#### **Extent Information**

**E43** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F631** Words in s. 19(1)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 16(a)(i); S.S.I. 2004/407, art. 2
- **F632** Words in s. 19(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 16(a)(ii); S.S.I. 2004/407, art. 2
- **F633** Words in s. 19(1)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 16(a)(iii); S.S.I. 2004/407, art. 2
- **F634** Words in s. 19(1)(c) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 4(a)**
- **F635** Words in s. 19(2) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 16(b)(i); S.S.I. 2004/407, art. 2
- **F636** Words in s. 19(2) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 16(b)(ii); S.S.I. 2004/407, art. 2
- **F637** Words in s. 19(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 16(c)(i)**; S.S.I. 2004/407, **art. 2**
- **F638** S. 19(3): paras. (a)(b) substituted (S.) (26.3.2003) for words by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 4(b)**
- **F639** Words in s. 19(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 16(c)(ii)**; S.S.I. 2004/407, **art. 2**
- **F640** S. 19(4)-(8) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 16(d)**; S.S.I. 2004/407, **art. 2**

## [F9119XAConstables' powers in connection with samples

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred [F92by section 19] is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (the relevant specimen) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—
  - (a) is alleged to be, or
  - (b) the constable suspects with reasonable cause to be,
  - a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must

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give the person taking the sample such assistance as he may reasonably require for that purpose.

- (4) "Specimen" and "sample" have the same meaning as in section 18C.
- (5) This section is subject to section 18F (restrictions on taking samples).

#### **Textual Amendments**

- **F91** S. 19XA, 19XB inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 3; S.I. 2006/1382, art. 2
- F92 Words in s. 19XA(1) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), Sch. 26 para. 7; S.I. 2008/1586, art. 2(1)(3), Sch. 1 para. 48(e) (subject to Sch. 2)

## 19XB Offences in connection with enforcement powers

- (1) A person is guilty of an offence if he—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).
- (2) A person is guilty of an offence if he—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).
- (3) A person is guilty of an offence if he—
  - (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).
- (4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.]

# Textual Amendments F91 S. 19XA, 19XB inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 3; S.I. 2006/1382, art. 2

IJLA	Emortement.	Wildlife	inspectors.	
	F93			

1074 Enforcement wildlife inspectors

#### **Textual Amendments**

F93 S. 19ZA omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 4 and repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107 {Sch. 12}; S.I. 2006/1382, art. 2; S.I. 2006/2541, art. 2

## 19ZB Power to take samples.

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#### **Textual Amendments**

F94 S. 19ZB omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 4 and repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107 {Sch. 12}; S.I. 2006/1382, art. 2; S.I. 2006/2541, art. 2

# [F95] Wildlife inspectors: Scotland

- 19ZC
  (1) The Scottish Ministers may authorise any person to carry out the functions conferred by this section and section 19ZD(3), (4) and (8) (and any person so authorised is to be known as a "wildlife inspector").
  - (2) An authorisation under subsection (1)—
    - (a) shall be in writing, and
    - (b) is subject to any conditions or limitations specified in it.
  - (3) A wildlife inspector may, at any reasonable time and (if required to do so) upon producing evidence of authorisation, enter and inspect—
    - (a) any premises for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
    - (b) any premises where the inspector has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
    - (c) any premises where the inspector has reasonable cause to believe that any birds are kept, for the purpose of ascertaining whether an offence under section 8(1) is being, or has been, committed on those premises;
    - (d) any premises for the purpose of ascertaining whether an offence under section 14 or 14A is being, or has been, committed on those premises;
    - (e) any premises for the purpose of verifying any statement or representation which has been made by an occupier, or any document or information which has been furnished by the occupier, and which the occupier made or furnished—
      - (i) for the purposes of obtaining (whether for the occupier or another person) a relevant registration or licence; or
      - (ii) in connection with a relevant registration or licence held by the occupier.

## (4) In subsection (3)—

(a) paragraphs (a) to (c) do not confer power to enter a dwelling except for purposes connected with—

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- (i) a relevant registration or licence held by an occupier of the dwelling; or
- (ii) an application by an occupier of the dwelling for a relevant registration or licence,
- (b) paragraph (d) does not confer power to enter a dwelling.
- (5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 8(1), 9(5), 13(2), 14 or 14A is being, or has been, committed in respect of any specimen, require any person who has possession or control of the specimen to make it available for examination by the inspector.
- (6) Any person who has possession or control of any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.
- (7) Any person who—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5); or
  - (b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),

shall be guilty of an offence.

- (8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.
- (9) In this section—
  - "relevant registration or licence" means—
  - (a) a registration in accordance with regulations under section 7(1); or
  - (b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 8(1), 9(5), 13(2), 14 or 14A;
  - "specimen" means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.

## **Textual Amendments**

F95 Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 17; S.S.I. 2004/407, art. 2

## **Modifications etc. (not altering text)**

C12 S. 19ZC applied (with modifications) (S.) (29.11.2004) by S.I. 1994/2716, reg. 101A(3) (as susbstituted by The Conservation (Natural Habitats, & c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), reg. 18

## 19ZD Power to take samples: Scotland

(1) A constable who suspects with reasonable cause that a specimen found by the constable in the exercise of powers conferred by section 19 is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample of blood or tissue in order to determine its origin, identity or ancestry.

- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen ("the relevant specimen") may require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person's possession or control which is alleged to be, or which the constable suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.
- (3) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2), 14 or 14A is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by the inspector in the exercise of powers conferred by section 19ZC(3)(a) to (d) in order to determine its origin, identity or ancestry.
- (4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2), 14 or 14A is being or has been committed in respect of any specimen ("the relevant specimen"), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person's possession or control which is alleged to be, or which the inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.
- (5) No sample from a live bird, other animal or plant shall be taken pursuant to a requirement under this section unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.
- (6) No sample from a live bird or other animal shall be taken pursuant to such a requirement except by a veterinary surgeon.
- (7) Where a sample from a live bird or other animal is to be taken pursuant to such a requirement, any person who has possession or control of the specimen shall give the person taking the sample such assistance as that person may reasonably require for that purpose.
- (8) A constable entering premises under section 19(2), and any wildlife inspector entering premises under section 19ZC(3), may take with him a veterinary surgeon if the constable or, as the case may be, inspector has reasonable grounds for believing that such a person will be required for the exercise on the premises of powers under subsection (1) or (2) or, as the case may be, (3) or (4).
- (9) Any person who—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of the power conferred by subsection (3),
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under subsection (2) or (4), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under subsection (7),

shall be guilty of an offence.

## (10) In this section—

- (a) "specimen" has the same meaning as in section 19ZC;
- (b) in relation to a specimen which is a part of, or is derived from, a bird, other animal or plant, references to determining its origin, identity or ancestry are to determining the origin, identity or ancestry of the bird, other animal or plant.

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#### **Textual Amendments**

**F95** Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 17; S.S.I. 2004/407, art. 2

## **Modifications etc. (not altering text)**

C13 S. 19ZD applied (with modifications) (S.) (29.11.2004) by S.I. 2004/2716, reg. 101A(3) (as substituted by The Conservation (Natural Habitats, & c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), reg. 18)

# [F9619A Evidence in Scotland as to taking or destruction of eggs.

In any proceedings in Scotland for an offence under section 1(1)(c) of, or by virtue of section 3(1)(a)(iii) of, this Act, the accused may be convicted on the evidence of one witness.]

#### **Textual Amendments**

**F96** S. 19A inserted (18.9.1993) (S.) by 1993 c. 9, **s.36** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(3), **Sch.2**.

# 20 [F97Proceedings for summary offences]. E+W

<sup>F98</sup>(1).....

- (2) [F99Proceedings for a summary offence under this Part] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

## **Extent Information**

E15 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- F97 S. 20 heading substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 53, 107, Sch. 6 para. 3(3); S.I. 2006/1382, art. 2
- F98 S. 20(1) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 102, 103(2), Sch. 12 para. 9(1)(a), Sch. 16 Pt. IV (with Sch. 12 para. 9(2))
- **F99** Words in s. 20(2) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 53, 107, **Sch. 6 para. 3(2)**; S.I. 2006/1382, **art. 2**

20	Summary	prosecutions.	S
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- (1) <sup>F641</sup>.......
- (2) Summary proceedings for an offence [F642 under this Part] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than [F643 three] years after the commission of the offence [F644 or, in the case of a continuous contravention, after the last date on which the offence was committed].
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

### **Extent Information**

**E44** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F641** S. 20(1) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), Sch. 3 para. 5(a)
- **F642** Words in s. 20(2) substituted (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 5(b)**
- **F643** Word in s. 20(2) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 18(a)**; S.S.I. 2004/407, **art. 2**
- **F644** Word in s. 20(2) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 18(b)**; S.S.I. 2004/407, **art. 2**

# 21 Penalties, forfeitures etc. E+W

- [F100(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 or section 17 shall be 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.]
  - (4) A person guilty of an offence under section 14 [F101 or 14ZA] shall be liable—
    - (a) on summary conviction, [F102 to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both];
    - (b) on conviction on indictment, [F102 to imprisonment for a term not exceeding two years or to a fine, or to both].

$[^{\text{F103}}(4A)^{\text{F104}}\dots\dots\dots\dots\dots\dots\dots\dots\dots$		
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- [ Except in a case falling within subsection (4B) a person guilty of an offence under F105 (4AA) section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]
  - (4B) A person guilty of an offence under [F106 section 19XB(1)(a) or (2)(a)] in relation to a wildlife inspector [F107 entering premises to ascertain whether an offence under section 14 or 14ZA is being or has been committed] shall be liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum;

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- (b) on conviction on indictment, to a fine.
- (4C) A person guilty of an offence under section [F10819XB(4)] shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

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- (5) Where an offence to which subsection (1) F110... applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.
- (6) The court by which any person is convicted of an offence under this Part—
  - (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
  - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14 [FIII] or 14ZA], any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
- (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

#### **Extent Information**

**E16** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- F100 S. 21(1) substituted for s. 21(1)-(3) (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 10(2)(6)
- **F101** Words in s. 21(4)(6)(b) inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 73(1)**; S.I. 2006/2541, **art. 2**
- F102 Words in s. 21(4)(a)(b) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 9 para. 10(3)(a)(b)(6)
- F103 S. 21(4A)-(4D) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 10(4)(6)
- **F104** S. 21(4A)(4D) omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 5(2); S.I. 2006/1382, art. 2
- **F105** S. 21(4AA) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(3)**; S.I. 2006/1382, **art. 2**
- **F106** Words in s. 21(4B) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 5(4)(a); S.I. 2006/1382, art. 2
- **F107** Words in s. 21(4B) substituted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 5(4)(b); S.I. 2006/1382, art. 2
- **F108** Words in s. 21(4C) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 5(5); S.I. 2006/1382, art. 2
- **F109** S. 21(4A)(4D) omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 5(2); S.I. 2006/1382, art. 2

- **F110** Words in s. 21(5) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 102, 103(2), Sch. 9 para. 10(5) (6), **Sch. 16 Pt. IV**
- **F111** Words in s. 21(4)(6)(b) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 73(1)**; S.I. 2006/2541, **art. 2**

## **Modifications etc. (not altering text)**

C14 S. 21(4AA)-(4C) applied (with modifications) (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 7-11; S.I. 2006/1382, art. 2

# 21 Penalties, forfeitures etc. S

[F645(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to
13 J <sup>F646</sup> , 15A, 17, 19ZC (other than an offence under section 19ZC(7) in relation to a
wildlife inspector acting in exercise of the power conferred by section 19ZC(3)(d)) o
19ZD] shall be 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.]

(2	) F64	7																
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- (4) A person guilty of an offence under section 14 [F648 or 14A] shall be liable
  - on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the  $[^{F650}$ £40,000], or to both;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.]
- [F651(4A) A person guilty of an offence under section 19ZC(7) in relation to a wildlife inspector acting in exercise of the power conferred by subsection (3)(d) of that section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.]
  - (5) Where an offence to which subsection (1), <sup>F652</sup>... applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.
  - (6) The court by which any person is convicted of an offence under this Part—
    - (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
    - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14 [F653] or 14A], any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
  - (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

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#### **Extent Information**

E45 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F645** S. 21(1) substituted (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 6(a)**
- **F646** Words in s. 21(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 19(a); S.S.I. 2004/407, art. 2
- **F647** S. 21(2)(3) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 6(b)**
- **F648** Words in s. 21(4) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 19(b)(i); S.S.I. 2004/407, art. 2
- **F649** S. 21(4)(a)(b) substituted (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 6(c)**
- **F650** Words in s. 21(4)(a) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 19(b)(ii); S.S.I. 2004/407, art. 2
- **F651** S. 21(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 19(c); S.S.I. 2004/407, art. 2
- **F652** Words in s. 21(5) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), **Sch. 3 para. 6(d)**
- **F653** Word in s. 21(6)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 19(d)**; S.S.I. 2004/407, **art. 2**

## Power to vary Schedules. E+W

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year, add any bird to, or remove any bird from, any of or any Part of [F112]Schedules ZA1 to 4].
- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- (3) The Secretary of State may, on a representation made [F113 to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act], by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—
  - (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
  - (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered

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- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or with respect to particular provisions of this Part or particular times of the year—
  - (a) add any animals to, or remove any animals from, Schedule 5 or Schedule 6; and
  - (b) add any plants to, or remove any plants from, Schedule 8.
- (5) The Secretary of State may by order, either generally or with respect to particular areas of Great Britain—
  - (a) add any animals to, or remove any animals from, Part I of Schedule 9; and
  - (b) add any plants to, or remove any plants from, Part II of that Schedule.

#### **Extent Information**

E17 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

## **Textual Amendments**

- **F112** Words in s. 22(1) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 47(5), 107; S.I. 2006/1382, art. 2
- **F113** Words in s. 22(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 74(2)(a); S.I. 2006/2541, art. 2
- **F114** Words in s. 22(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 74(2)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F115** S. 22(3A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 74(3)**; S. I. 2006/2541, **art. 2**

# 22 Power to vary Schedules. S

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year
- [F654(a)] add any bird to, or remove any bird from, any of or any Part of Schedules [F655A1] to 4.
- [F656(b)] add any animal to, or remove any animal from, Schedule 5 or 6 or Part I of Schedule 9;
  - (c) add any plant to, or remove any plant from, Schedule 8 or Part II of Schedule 9.]
- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- [F657(2A) Before making an order under subsection (1) the Scottish Ministers shall consult Scottish Natural Heritage.]
  - (3) The Secretary of State may, on a representation made [F658 to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act], by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
- (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered

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[F660 (3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]

- (4) F661.....
- (5) F661.....

## **Extent Information**

**E46** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### **Textual Amendments**

- **F654** Words in s. 22(1) renumbered (S.) (1.10.2004) as s. 22(1)(a) by virtue of Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 20(a)(i); S.S.I. 2004/407, art. 2
- **F655** Word in s. 22(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 20(a)(ii); S.S.I. 2004/407, art. 2
- **F656** S. 22(1)(b)(c) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 20(a)(iii); S.S.I. 2004/407, art. 2
- **F657** S. 22(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 20(b); S.S.I. 2004/407, art. 2
- **F658** Words in s. 22(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 74(2)(a); S.I. 2006/2541, art. 2
- **F659** Words in s. 22(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 74(2)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F660** S. 22(3A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 74(3)**; S. I. 2006/2541, **art. 2**
- **F661** S. 22(4)(5) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 20(c)**; S.S.I. 2004/407, **art. 2**

## Advisory bodies and their functions.

- (1) The Secretary of State may—
  - (a) establish any body or bodies, consisting in each case of such members as he may from time to time appoint;
  - (b) assign to any body or bodies the duty referred to in subsection (4).
- (2) Without prejudice to his power under subsection (1), the Secretary of State shall, as soon as practicable after the commencement date,—
  - (a) establish at least one body under paragraph (a) of subsection (1); or
  - (b) assign to at least one body, under paragraph (b) of that subsection, the duty referred to in subsection (4).
- (3) A reference in this Part to an advisory body is a reference to a body which is established under subsection (1) or to which the duty there referred to is assigned under that subsection.

- (4) It shall be the duty of an advisory body to advise the Secretary of State on any question which he may refer to it or on which it considers it should offer its advice—
  - (a) in connection with the administration of this Part; or
  - (b) otherwise in connection with the protection of birds or other animals or plants.
- (5) In so far as it does not have power to do so apart from this subsection, an advisory body may publish reports relating to the performance by it of its duty under subsection (4).
- (6) Before appointing a person to be a member of an advisory body established under subsection (1)(a), the Secretary of State shall consult such persons or bodies as he thinks fit.
- (7) The Secretary of State may, out of moneys provided by Parliament and to such an extent as may be approved by the Treasury, defray or contribute towards the expenses of an advisory body established under subsection (1)(a).

# 24 [F116Functions of GB conservation bodies] E+W

- (1) The [F117GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act] may at any time and shall five years after [F11830th October 1991] and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion,—
  - (a) any animal should be added to, or removed from, Schedule 5;
  - (b) any plant should be added to, or removed from, Schedule 8

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- [F120(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]
  - (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year; and any advice so given shall be accompanied by a statement of the reasons which led [F121 to that advice being given.]
  - [F122(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.]
    - (4) The functions of the [F123GB conservation bodies] shall include power to advise or assist—
      - (a) any constable;
      - (b) any proper officer of a local authority; or
      - [F124(c) any wildlife inspector,]

in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

## **Extent Information**

**E18** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

## **Textual Amendments**

**F116** S. 24 heading substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(5); S.I. 2006/2541, art. 2

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- **F117** Words in s. 24(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(2)(a); S.I. 2006/2541, art. 2
- **F118** Words in s. 24(1) substituted (1.4.1991.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, Sch. 9 para. 11(6)(a); S.I.1991/685, art.3.
- **F119** Words in s. 24(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 75(2)(b), Sch. 12; S.I. 2006/2541, art. 2
- **F120** S. 24(1A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 75(3)**; S.I. 2006/2541, **art. 2**
- **F121** Words in s. 24(2) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(6)(b)**; 1991/685, art.3.
- F122 S. 24(3) substituted (1.4.1991.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(6)(c); S.I. 1991/685, art. 3.
- **F123** Words in s. 24(4) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(4); S.I. 2006/2541, art. 2
- F124 S. 24(4)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 11

# 24 [F662 Functions of GB conservation bodies] S

- (1) The [F663GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act] may at any time and shall five years after [F66430th October 1991] and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion,—
  - (a) any animal should be added to, or removed from, Schedule 5;
  - (b) any plant should be added to, or removed from, Schedule 8

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- [F666(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]
  - (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year; and any advice so given shall be accompanied by a statement of the reasons which led [F667 to that advice being given.]
  - [F668(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.]
    - (4) The functions of the [F669GB conservation bodies] shall include power to advise or assist—
      - (a) any constable;
      - (b) any proper officer of a local authority; or
      - (c) any person duly authorised by the Secretary of State under section 6(9), 7(6) or 14(5),

in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

## **Extent Information**

**E47** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F662** S. 24 heading substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(5); S.I. 2006/2541, art. 2
- **F663** Words in s. 24(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(2)(a); S.I. 2006/2541, art. 2
- **F664** Words in s. 24(1) substituted (1.4.1991.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, Sch. 9 para. 11(6)(a); S.I.1991/685, art.3.
- **F665** Words in s. 24(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 75(2)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F666** S. 24(1A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(3); S.I. 2006/2541, art. 2
- **F667** Words in s. 24(2) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(6)(b)**; 1991/685, art.3.
- **F668** S. 24 (3) substituted ( *1.4.1991*.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(6)(c); S.I. 1991/685, art.3.
- **F669** Words in s. 24(4) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 75(4); S.I. 2006/2541, art. 2

## 25 Functions of local authorities.

- (1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of—
  - (a) the provisions of this Part; and
  - (b) any order made under this Part affecting the whole or any part of their area.
- (2) A local authority in England and Wales may institute proceedings for any offence under this Part or any order made under it which is committed within their area.

# 26 Regulations, orders, notices etc. E+W

- (1) Any power to make regulations or orders under this Part shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than sections 2(6), 3, 5 and 11, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section 5 or 11 shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making any order under this Part, the Secretary of State—
  - (a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - (b) except in the case of an order under section 22(3), shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made; and
  - (c) may, if he thinks fit, cause a public inquiry to be held.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Notice of the making of an order under this Part shall be published by the Secretary of State—
  - (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
  - (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

#### **Extent Information**

E19 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

# 26 Regulations, orders, notices etc. S

- (1) Any power to make regulations or orders under this Part shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than sections 2(6), 3, 5 and [F67011(4)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section 5 or [F67011(4)] shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making any order under this Part, the Secretary of State—
  - (a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - (b) except in the case of an order under section [F67122], shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made; and
  - (c) may, if he thinks fit, cause a public inquiry to be held.
- (5) Notice of the making of an order under this Part shall be published by the Secretary of State—
  - (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
  - (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

## **Extent Information**

E48 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

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F670 Word in s. 26(2)(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 21(a); S.S.I. 2004/407, art. 2
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**F671** Word in s. 26(4)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 21(b); S.S.I. 2004/407, art. 2

# [F12526A Enforcement of wildlife legislation

Regulations under section 2(2) of the European Communities Act 1972 (c. 68) for the purpose of implementing Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora [F126] (that is, the Directive as amended from time to time by any other [F127EU] instrument or otherwise) ] may, despite paragraph 1(1) (d) of Schedule 2 to that Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.]

#### **Textual Amendments**

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F125 S. 26A inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 22; S.S.I. 2004/407, art. 2
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F126 Words in s. 26A substituted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 44(2), 84; S.S.I. 2007/250, art. 3 (subject to art. 4)

**F127** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

## 27 Interpretation of Part I. E+W

(1) In this Part, unless the context otherwise requires—

"advertisement" includes a catalogue, a circular and a price list;

"advisory body" has the meaning given by section 23;

"agriculture Minister" means the Minister of Agriculture, Fisheries and Food or the Secretary of State;

"authorised person" means—

- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;
- (c) as respects anything done in relation to wild birds, any person authorised in writing  $[^{F128}$  by—
  - (i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);
  - (ii) any] of the following bodies, that is to say, [F129] any of the [F130] GB conservation bodies]], F131... a district board for a fishery district within the meaning of the M12 Salmon Fisheries (Scotland) Act 1862 [F132] or an inshore fisheries and conservation authority] F133...;
- (d) [F134 any person authorised in writing by the National Rivers Authority, a water undertaker or a sewerage undertaker;]

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

"automatic weapon" and "semi-automatic weapon" do not include any weapon the magazine of which is incapable of holding more than two rounds;

"aviculture" means the breeding and rearing of birds in captivity;

"destroy", in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and "destruction" shall be construed accordingly;

"domestic duck" means any domestic form of duck;

"domestic goose" means any domestic form of goose;

"firearm" has the same meaning as in the M13Firearms Act 1968;

"game bird" means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;

I<sup>F135</sup> " inland waters " means—

- (a) inland waters within the meaning of the Water Resources Act 1991; M14
- (b) any waters not falling within paragraph (a) above which are within the seaward limits of the territorial sea;
- (c) controlled waters within the meaning of Part II of the Control of Pollution Act 1974 M15 other than ground waters as defined in section 30A(1)(d) of that Act.

[F136 "inshore fisheries and conservation authority" means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009; ]

"livestock" includes any animal which is kept—

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing;

"local authority" means—

- (a) in relation to England F137. . ., a county, district or London borough council F138. . .;
- (aa) [F139 in relation to Wales, a county council or county borough council;]
- (b) in relation to Scotland, a [F140] council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

"occupier", in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

"pick", in relation to a plant, means gather or pluck any part of the plant without uprooting it;

"poultry" means domestic fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

[F141 " premises" includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport; ]

"sale" includes hire, barter and exchange and cognate expressions shall be construed accordingly;

"uproot", in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;

"vehicle" includes aircraft, hovercraft and boat;

"wild animal" means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

"wild bird" means any bird of a [F143 species] which is ordinarily resident in or is a visitor to [F144 the European territory of any member State] in a wild state but does not include poultry or, except in sections 5 and 16, any game bird;

[F145 " the Wild Birds Directive" means Council Directive 79/409/ EEC on the conservation of wild birds; ]

"wild plant" means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.

[ $^{\text{F146}}$  " wildlife inspector" has the meaning given by [ $^{\text{F147}}$  section 18A(1)].]

- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.

[F148(3A) In this Part "the GB conservation bodies" means—

- (a) Natural England,
- (b) the Countryside Council for Wales, and
- (c) Scottish Natural Heritage,

and references to a conservation body are to be read accordingly.]

- (4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.
- (5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

### **Extent Information**

**E20** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- F128 S. 27(1): words in para. (c) of definition of "authorised person" substituted (E.W.) (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 193(4), 324(2)(c)
- **F129** Words in s. 27(1) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), Sch. 9 para. 11(7)(a); S.I. 1991/685, art. 3.
- **F130** S. 27(1): words in definition of "authorised person" substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 76(2); S.I. 2006/2541, art. 2
- **F131** Words in s. 27(1) repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- **F132** Words in s. 27(1) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch.** 14 para. 11(a); S.I. 2011/556, art. 2(2)(k)
- **F133** Words in s. 27(1) repealed (E.W.) (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2) (o) (with art. 2(3))

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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F134 S. 27(1): para. (d) in definition of "authorised person" inserted (E.W.) by Water Act 1989 (c. 15, SIF
        130), ss. 58(7), 101(1), 141(6), 60(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 66(1), Sch. 26
        paras. 3(1)(2), 17, 40(4), 57(6), 58
 F135 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, reg. 4
 F136 Definition "inshore fisheries and conservation authority" in s. 27(1) inserted (1.4.2011) by Marine and
        Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 14 para. 11(b); S.I. 2011/556, art. 2(2)(k)
 F137 Words in s. 27(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(2), Sch. 18 (with ss.
        54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, Sch. 2
 F138 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
 F139 S. 27(1): para. (aa) in the definition of "local authority" inserted (1.4.1996) by 1994 c. 19, s. 66(6),
        Sch. 16 para. 65(2) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)), S.I. 1996/396, art. 4, Sch. 2
 F140 Words in s. 27(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 125(2); S.I.
        1996/323, art. 4(1)(b)(c)
 F141 S. 27(1): definition of "premises" inserted (E.W.) (1.10.2006) by Natural Environment and Rural
        Communities Act 2006 (c. 16), ss. 105(2), 107, Sch. 11 para. 76(3)(5); S.I. 2006/2541, art. 2
 F142 S. 27(1): definition of "water authority" repealed (S.) (1.4.2002) by Water Industry (Scotland) Act
        2002 (asp 3), s. 71, Sch. 7 para. 11(2); S.S.I. 2002/118, art. 2(3)
 F143 S. 27(1): word in definition of "wild bird" substituted (E.W.) (14.7.2004) by The Wildlife and
        Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg.
        4(a)} and also expressed to be substituted (W.) (2.8.2004) by S.I. 2004/1733, reg. 3(1), Sch. para. 2(a)
 F144 S. 27(1): words in definition of "wild bird" substituted (E.W.) (14.7.2004) by The Wildlife and
        Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg.
        4(b)} and also expressed to be substituted (W.) (2.8.2004) by S.I. 2004/1733, reg. 3(1), Sch. para. 2(b)
 F145 S. 27: definition of "the Wild Birds Directive" inserted (E.W.) (21.8.2007) by The Conservation
        (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(6)
 F146 S. 27(1): definition of "wildlife inspector" inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2),
        Sch. 12 para. 12
 F147 S. 27(1): words in definition of "wildlife inspector" substituted (E.W.) (31.5.2006) by Natural
        Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, Sch. 5 para. 6; S.I. 2006/1382,
 F148 S. 27(3A) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16),
        ss. 105(2), 107, Sch. 11 para. 76(4); S.I. 2006/2541, art. 2
Marginal Citations
 M12 1862 c. 97.
 M13 1968 c. 27.
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# 27 Interpretation of Part I. S

**M14** 1991 c.57. **M15** 1974 c.40.

(1) In this Part, unless the context otherwise requires—

"advertisement" includes a catalogue, a circular and a price list;

"advisory body" has the meaning given by section 23;

"agriculture Minister" means the Minister of Agriculture, Fisheries and Food or the Secretary of State;

"authorised person" means—

- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;

- (c) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, [F129] any of the [F672]GB conservation bodies]], F131... a district board for a fishery district within the meaning of the M12Salmon Fisheries (Scotland) Act 1862 [F132] or an inshore fisheries and conservation authority] or a local fisheries committee constituted under the M64Sea Fisheries Regulation Act 1966;
- (d) [F134 any person authorised in writing by the National Rivers Authority, a water undertaker or a sewerage undertaker;]

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

"automatic weapon" and "semi-automatic weapon" do not include any weapon the magazine of which is incapable of holding more than two rounds;

"aviculture" means the breeding and rearing of birds in captivity;

"destroy", in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and "destruction" shall be construed accordingly;

"domestic duck" means any domestic form of duck;

"domestic goose" means any domestic form of goose;

"firearm" has the same meaning as in the M13Firearms Act 1968;

"game bird" means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;

I<sup>F135</sup> " inland waters " means—

- (a) inland waters within the meaning of the Water Resources Act 1991; M14
- (b) any waters not falling within paragraph (a) above which are within the seaward limits of the territorial sea;
- (c) controlled waters within the meaning of Part II of the Control of Pollution Act 1974  $^{\rm M15}$  other than ground waters as defined in section 30A(1)(d) of that Act. ]

[F136 "inshore fisheries and conservation authority" means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;

"livestock" includes any animal which is kept—

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing;

"local authority" means—

- (a) in relation to England F137. . ., a county, district or London borough council F138. . .;
- (aa) [F139 in relation to Wales, a county council or county borough council;]
- (b) in relation to Scotland, a [F140 council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

"occupier", in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

"pick", in relation to a plant, means gather or pluck any part of the plant without uprooting it;

"poultry" means [F673 the domestic forms of the following, that is to say] fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

"sale" includes hire, barter and exchange and cognate expressions shall be construed accordingly;

"uproot", in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;

"vehicle" includes aircraft, hovercraft and boat; M65F142

"wild animal" means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

"wild bird" means any bird of a [F674 species] which is ordinarily resident in or is a visitor to [F675 any member State or the European territory of any member State] in a wild state but does not include poultry or, except in sections 5 and 16, any game bird;

"wild plant" means any plant [F676(including fungi)] which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.

[F146 " wildlife inspector " has the meaning given by section 19ZA(1).]

- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- [F677(2A) An animal shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully held in captivity—
  - (a) where the animal is of a viviparous species, when it was born,
  - (b) where the animal is of an oviparous species, when the egg was laid.]
  - (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.
- I<sup>F678</sup>(3ZA) Any reference in this Part to a plant which is growing—
  - (a) includes a reference to a bulb, corm or rhizome;
  - (b) does not include a reference to a seed or spore.]
  - [F679(3A) In this Part "the GB conservation bodies" means—
    - (a) Natural England,
    - (b) the Countryside Council for Wales, and
    - (c) Scottish Natural Heritage,

and references to a conservation body are to be read accordingly.

- (4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.
- (5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

### **Extent Information**

**E49** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

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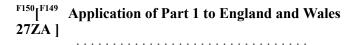
Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### **Textual Amendments**

- **F129** Words in s. 27(1) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. **132(1)(a)**,Sch. 9 para. 11(7)(a); S.I. 1991/685, art. 3.
- **F131** Words in s. 27(1) repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- **F132** Words in s. 27(1) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch.** 14 para. 11(a); S.I. 2011/556, art. 2(2)(k)
- **F134** S. 27(1): para. (d) in definition of "authorised person" inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 60(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 66(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F135 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, reg. 4
- F136 Definition "inshore fisheries and conservation authority" in s. 27(1) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 14 para. 11(b); S.I. 2011/556, art. 2(2)(k)
- **F137** Words in s. 27(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(2), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F138 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
- **F139** S. 27(1): para. (aa) in the definition of "local authority" inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- **F140** Words in s. 27(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 125(2**); S.I. 1996/323, **art. 4(1)(b)(c)**
- **F142** S. 27(1): definition of "water authority" repealed (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 11(2)**; S.S.I. 2002/118, **art. 2(3)**
- **F146** S. 27(1): definition of "wildlife inspector" inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 12**
- **F672** S. 27(1): words in definition of "authorised person" substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 76(2); S.I. 2006/2541, art. 2
- **F673** S. 27(1): words in the definition of "poultry" substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(2)(a)**; S.S.I. 2004/407, **art. 2**
- **F674** S. 27(1): word in the definition of "wild bird" substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 23(2)(b)(i); S.S.I. 2004/407, art. 2
- **F675** S. 27(1): words in the definition of "wild bird" substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 23(2)(b)(ii); S.S.I. 2004/407, art. 2
- **F676** S. 27(1): words in definition of "wild plant" inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 23(2)(c); S.S.I. 2004/407, art. 2
- **F677** S. 27(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(3)**; S.S.I. 2004/407, **art. 2**
- **F678** S. 23(3ZA) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(4)**; S.S.I. 2004/407, **art. 2**
- **F679** S. 27(3A) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107, **Sch. 11 para. 76(4)**; S.I. 2006/2541, **art. 2**

#### **Marginal Citations**

- **M12** 1862 c. 97.
- M13 1968 c. 27.
- **M14** 1991 c.57.
- M15 1974 c.40.
- M64 1966 c. 38.
- M65 1980 c. 45.



#### **Textual Amendments**

- **F149** S. 27ZA inserted (E.W.) (14.7.2004) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 5}
- F150 S. 27ZA ceases to have effect (W.) (2.8.2004) by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1)

#### PART II

NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

<sup>X2</sup>[F151] Sites of special scientific interest and limestone pavements]

#### **Editorial Information**

X2 S. 27A and preceding heading repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 77, Sch. 12; S.I. 2006/2541, art. 2 and new s. 27AA and preceding heading inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 78; S.I. 2006/2541, art. 2

#### **Textual Amendments**

**F151** S. 27AA and preceding heading inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 78; S.I. 2006/2541, art. 2

### 27A Construction of references to Nature Conservancy Council.

F152

### **Textual Amendments**

**F152** S. 27A and preceding heading repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 77, Sch. 12; S.I. 2006/2541, art. 2

### [F15327AAApplication of sections 28 to 34 in Wales

In relation to land in Wales, sections 28 to 34 (which relate to sites of special scientific interest and limestone pavements) have effect as if references to Natural England were references to the Countryside Council for Wales.]

### **Textual Amendments**

**F153** S. 27AA and preceding heading inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 78; S.I. 2006/2541, art. 2

# [F154 28 Sites of special scientific interest. E+W

- (1) Where [F155Natural England] are of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it shall be the duty of [F155Natural England] to notify that fact—
  - (a) to the local planning authority [F156(if any)] in whose area the land is situated;
  - (b) to every owner and occupier of any of that land; and
  - (c) to the Secretary of State.

[ The reference in subsection (1) to land includes—

- F157(1A) (a) any land lying above mean low water mark;
  - (b) any land covered by estuarial waters.
  - (1B) Where the area of land to which a notification under subsection (1) relates includes land falling within subsection (1A)(a) or (b) ("area A"), it may also include land not falling within subsection (1A)(a) or (b) ("area B") if—
    - (a) area B adjoins area A, and
    - (b) any of the conditions in subsection (1C) is satisfied.
  - (1C) The conditions are—
    - (a) that the flora, fauna or features leading to the notification of area A is or are also present in area B;
    - (b) that the notification of area A is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
    - (c) that, without the inclusion of area B, the identification of the boundary of the land notified (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.]
    - (2) [F155] Natural England] shall also publish a notification of [F158] the fact mentioned in subsection (1)] in at least one local newspaper circulating in the area in which the land is situated.
    - (3) A notification under subsection (1) shall specify the time (not being less than three months from the date of the giving of the notification) within which, and the manner in which, representations or objections with respect to it may be made; and [F155] Natural England] shall consider any representation or objection duly made.
    - (4) A notification under subsection (1)(b) shall also specify—
      - (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest, and
      - (b) any operations appearing to [F155]Natural England] to be likely to damage that flora or fauna or those features,

and shall contain a statement of [F159]Natural England's] views about the management of the land (including any views [F155]Natural England] may have about the conservation and enhancement of that flora or fauna or those features).

- (5) Where a notification under subsection (1) has been given, [F155] Natural England may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—
  - (a) give notice to the persons mentioned in subsection (1) withdrawing the notification; or

(b) give notice to those persons confirming the notification (with or without modifications).

[F160]In the case of a notification given in relation to land lying below mean low water mark by virtue of subsection (1B), this subsection is subject to section 28CB(4) and (6).]

- (6) A notification shall cease to have effect—
  - (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (1); or
  - (b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to there, at the end of that period.

[ Subsection (6)(b) does not apply in a case where notice has been given to Natural  $^{\text{F161}}(6A)$  England under section 28CB(3).]

- (7) [F159] Natural England's] power under subsection (5)(b) to confirm a notification under subsection (1) with modifications shall not be exercised so as to add to the operations specified in the notification or extend the area to which it applies.
- (8) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (1)(b) a notice under subsection (5)(b) confirming the notification with modifications, the notification shall have effect in its modified form in relation to so much (if any) of that land as remains subject to it.
- (9) A notification under subsection (1)(b) of land in England and Wales shall be a local land charge.
- [ For the purposes of this Part " estuarial waters " means any waters within the limits <sup>F162</sup>(9A) of transitional waters, within the meaning of the Water Framework Directive (that is to say, Directive 2000/60/ EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy). ]
  - (10) For the purposes of this section and sections 28A to 28D, "local planning authority ", in relation to land within the Broads, includes the Broads Authority.]

### **Extent Information**

**E21** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### **Textual Amendments**

- **F154** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)
- **F155** Words in s. 28 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
- **F156** Words in s. 28(1)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(2)(8)**; S.I. 2014/3088, art. 2(b)
- **F157** S. 28(1A)-(1C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(3)(8)**; S.I. 2014/3088, art. 2(b)

- **F158** Words in s. 28(2) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(4)(8)**; S.I. 2014/3088, art. 2(b)
- **F159** Words in s. 28 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
- **F160** Words in s. 28(5) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(5)(8)**; S.I. 2014/3088, art. 2(b)
- **F161** S. 28(6A) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), **ss. 148**, 324(2)(b)(ii), Sch. 13 para. 2(6)(8); S.I. 2014/3088, art. 2(b)
- **F162** S. 28(9A) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(7)(8)**; S.I. 2014/3088, art. 2(b)

28	Areas of special scientific interest.	S		
	F680			

### **Extent Information**

**E50** This version of this provision extends to Scotland only; a separate version has been created for England and Wales

### **Textual Amendments**

**F680** S. 28 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7** para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2) (S.S.I. 2004/495), {art. 2}

### [F16328A Variation of notification under section 28.

- (1) At any time after notice has been given under section 28(5)(b) confirming a notification (with or without modifications), [F164] Natural England] may by notice vary the matters specified or stated in the confirmed notification (whether by adding to them, changing them, or removing matter from them).
- (2) The area of land cannot be varied under this section.
- (3) [F164] Natural England] shall give notice setting out the variation to—
  - (a) the local planning authority [F165(if any)] in whose area the land is situated,
  - (b) every owner and occupier of any of the land who in the opinion of the Council may be affected by the variation, and
  - (c) the Secretary of State,

and after service of a notice under paragraph (b) the notification under section 28(1) (b) shall have effect in its varied form.

- (4) Section 28(3) shall apply to such a notice as it applies to a notification under section 28(1).
- (5) Where a notice under subsection (3) has been given, [F164] Natural England] may within the period of nine months beginning with the date the last of the owners and occupiers referred to in subsection (3)(b) was served with the notice either—

- (a) give notice to the persons mentioned in subsection (3) withdrawing the notice; or
- (b) give notice to them confirming the notice (with or without modifications).
- (6) A notice under subsection (3) shall cease to have effect—
  - (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (3); or
  - (b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to in that subsection, at the end of that period.
- (7) As from the time when there is served on the owner or occupier of any land a notice under subsection (5)(b) confirming a notice of variation with modifications, the notification under section 28(1)(b) shall have effect as so varied.
- (8) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notice under subsection (3) or (5)(b).]

#### **Textual Amendments**

- **F163** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)
- **F164** Words in s. 28A substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**
- **F165** Words in s. 28A(3)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 3**; S.I. 2014/3088, art. 2(b)

### [F16628B Notification of additional land.

- (1) Where [F167] Natural England ] are of the opinion that if land adjacent to a site of special scientific interest ("the extra land") were combined with the site of special scientific interest ("the SSSI"), the combined area of land would be of special interest by reason of any of its flora, fauna, or geological or physiographical features, [F167] Natural England ] may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority [F168(if any)] in whose area the extra land is situated;
  - (b) every owner and occupier of any of that extra land; and
  - (c) the Secretary of State.

[ The reference in subsection (1) to land includes—

- (a) any land lying above mean low water mark;
  - (b) any land covered by estuarial waters.
  - (2B) If any of the conditions in subsection (2C) is satisfied, the extra land may consist of or include an area of land not falling within subsection (2A)(a) or (b).
  - (2C) The conditions are—
    - (a) that the flora, fauna or features that led to the notification of the SSSI is or are also present in the area of the extra land not falling within subsection (2A) (a) or (b);

- (b) that the notification of the SSSI is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, that area;
- (c) that, without the inclusion of that area, the identification of the boundary of the SSSI (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
- (3) No [F170] notification under subsection (2)] may be given until after notice has been given under section 28(5)(b) confirming (with or without modifications) the notification under section 28(1) relating to the SSSI.
- (4) Subsections (2) and (3) of section 28 shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) A notification under subsection (2)(b) shall also specify—
  - (a) the area of land constituting the SSSI;
  - (b) what (as at the date of the notification under subsection (2)(b)) is specified or contained in the notification under section 28(1)(b) relating to the SSSI by virtue of section 28(4); and
  - (c) the reasons why  $[^{F167}Natural England]$  is of the opinion referred to in subsection (1).
- (6) In addition, the notification under subsection (2)(b) shall include a statement—
  - (a) saying whether or not anything among the matters specified in the notification by virtue of subsection (5)(c) is particularly relevant to the extra land; and
  - (b) if any such thing is of particular relevance, specifying which.
- (7) Subsections (5) to (7) of section 28 apply in relation to a notification under subsection (2) of this section as they apply in relation to a notification under subsection (1) of that section, as if references to "subsection (1)" [F172] and "subsection (1B)"] in section 28(5) to (7) were references to subsection (2) [F172] and subsection (2B) of this section respectively].
- (8) As from the time when a notification under subsection (2)(b) is served on the owner or occupier of any land, the notification under section 28(1)(b) shall have effect as if it included the notification under subsection (2)(b).
- (9) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (2)(b) a notice under section 28(5)(b) (as applied by subsection (7) of this section) confirming the notification under subsection (2)(b) with modifications, the notification under section 28(1)(b) (as extended by virtue of subsection (8) of this section) shall have effect in its modified form.
- (10) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notification under subsection (2) or under section 28(5)(b) as applied by subsection (7) of this section.]

### **Textual Amendments**

**F166** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F167** Words in s. 28B substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

- **F168** Words in s. 28B(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(2)(6)**; S.I. 2014/3088, art. 2(b)
- **F169** S. 28B(2A)-(2C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(3)(6)**; S.I. 2014/3088, art. 2(b)
- **F170** Words in s. 28B(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(4)(6)**; S.I. 2014/3088, art. 2(b)
- **F171** Words in s. 28B(7) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(5)(a)(6)**; S.I. 2014/3088, art. 2(b)
- **F172** Words in s. 28B(7) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(5)(b)(6)**; S.I. 2014/3088, art. 2(b)

### [F17328C Enlargement of SSSI.

- (1) Where [F174] Natural England ] are of the opinion that any area of land which includes, but also extends beyond, a site of special scientific interest ("the SSSI") is of special interest by reason of any of its flora, fauna, or geological or physiographical features, [F174] Natural England ] may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority [F175 (if any)] in whose area the land (including the SSSI) is situated;
  - (b) every owner and occupier of any of that land (including the SSSI); and
  - (c) the Secretary of State.

[ The reference in subsection (1) to land includes—

- $F^{176}(2A)$
- (a) any land lying above mean low water mark;
- (b) any land covered by estuarial waters.
- (2B) If any of the conditions in subsection (2C) is satisfied, the area of land to which a notification under subsection (2) relates may include an area of land not falling within subsection (2A)(a) or (b).
- (2C) The conditions are—
  - (a) that the flora, fauna or features that led to the notification of the SSSI is or are also present in the area of land not falling within subsection (2A)(a) or (b);
  - (b) that the notification of the SSSI is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, that area;
  - (c) that, without the inclusion of that area, the identification of the boundary of the SSSI (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
  - (3) Subsections (2) to (8) of section 28 apply to a notification under subsection (2) of this section as they apply to a notification under subsection (1) of that section, as if references to "subsection (1)" [F177, "subsection (1)(b)" and "subsection (1B)"] in section 28(2) to (8) were references to subsection (2) [F178, subsection (2)(b) and subsection (2B)] of this section respectively.

- (4) No notification may be given under subsection (2) until after notice has been given under section 28(5)(b) (or section 28(5)(b) as applied by subsection (3)) confirming (with or without modifications) the notification under section 28(1) (or subsection (2)) relating to the SSSI.
- (5) As from the time when a notification under subsection (2) is served on the owner or occupier of any land included in the SSSI, the notification in relation to that land which had effect immediately before the service of the notification under subsection (2) shall cease to have effect.
- (6) A notification under subsection (2)(b) of land in England and Wales shall be a local land charge; and, to the extent that any such land was the subject of a local land charge by virtue of section 28(9), that local land charge shall be discharged.
- (7) A notice under section 28E(1)(a) and a consent under section 28E(3)(a) given before a notification under subsection (2)(b) continue to have effect.
- (8) The enlargement of a site of special scientific interest under this section does not affect anything done under section 28J to 28L.
- (9) Any reference to—
  - (a) a notification under section 28(1) (or any of its paragraphs) shall be construed as including the corresponding notification under subsection (2);
  - (b) a notification under section 28(5)(b) shall be construed as including a notification under that provision as applied by subsection (3); and
  - (c) a local land charge existing by virtue of section 28(9) shall be treated as including one existing by virtue of subsection (6).]

### **Textual Amendments**

- **F173** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)
- **F174** Words in s. 28C substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
- F175 Words in s. 28C(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), Sch. 13 para. 6(2)(5); S.I. 2014/3088, art. 2(b)
- **F176** S. 28C(2A)-(2C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 6(3)(5)**; S.I. 2014/3088, art. 2(b)
- F177 Words in s. 28C(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), Sch. 13 para. 6(4)(a)(5); S.I. 2014/3088, art. 2(b)
- F178 Words in s. 28C(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), Sch. 13 para. 6(4)(b)(5); S.I. 2014/3088, art. 2(b)

### [F17928CÆuidance in relation to subtidal notifications of SSSIs

(1) The ministerial authority may issue guidance to Natural England about the exercise of the power conferred by section 28(1B), 28B(2B) or 28C(2B) to give a notification

under section 28(1), 28B(2) or 28C(2) (as the case may be) in relation to land lying below mean low water mark.

- (2) In this section and section 28CB "the ministerial authority" means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

### **Textual Amendments**

**F179** S. 28CA inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 7**; S.I. 2014/3088, art. 2(b)

### [F18028C]Power to call in subtidal notifications

- (1) This section applies where a notification under section 28(1), 28B(2) or 28C(2) has been given in relation to land lying below mean low water mark ("the subtidal land") by virtue of section 28(1B), 28B(2B) or 28C(2B) (as the case may be).
- (2) Natural England may not give notice under section 28(5)(b) confirming the notification unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.

(For the meaning of "the ministerial authority", see section 28CA.)

- (3) At any time before the notification is confirmed the ministerial authority may give notice to Natural England that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), Natural England may not give notice under section 28(5) until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the notification (if confirmed) must include all of the subtidal land;
  - (b) that the notification (if confirmed) must not include any of the subtidal land;
  - (c) that the notification (if confirmed) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the notification (if confirmed) should include the subtidal land is to be taken by Natural England.
- (6) If the ministerial authority gives a direction under subsection (5), Natural England must give notice under section 28(5)(a) or (b), in accordance with that direction, within the period of three months beginning with the date on which the direction is received by them.
- (7) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (8) A person appointed under subsection (7) must make a report to the ministerial authority of any oral or written representations made under that subsection.

- (9) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (7).
- (10) The power to make regulations under subsection (9) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations made under subsection (9) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A statutory instrument containing regulations made under subsection (9) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### **Textual Amendments**

**F180** S. 28CB inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), s. 324(1) (c)(d)(2)(b)(ii), **Sch. 13 para. 8**; S.I. 2014/3088, art. 2(b)

### [F18128D Denotification.

- (1) Where [F182] Natural England] are of the opinion that all or part of a site of special scientific interest
  - [ is  $[^{F184}$ not] of special interest by reason of any of the matters mentioned in section 28(1),  $[^{F185}$ or
    - (b) should no longer be the subject of a notification under section 28(1) because that land has been designated as (or as part of) a marine conservation zone under section 116 of the Marine and Coastal Access Act 2009,]

they may decide to notify that fact.

- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority [F186(if any)] in whose area [F187the land mentioned in subsection (1)] is situated;
  - (b) every owner and occupier of any of that land;
  - (c) the Secretary of State;
  - (d) the Environment Agency; and
  - (e) every relevant undertaker (within the meaning of section 4(1) of the M16 Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the M17 Land Drainage Act 1991) whose works, operations or activities may affect the land.
- (3) [F182] Natural England] shall also publish a notification of [F188] the fact mentioned in subsection (1)(a) or (b)] in at least one local newspaper circulating in the area in which the land referred to in subsection (2)(a) is situated.
- (4) Section 28(3) shall apply to a notification under subsection (2) or (3) as it applies to a notification under section 28(1).
- (5) Where a notification under subsection (2) has been given, [F182] Natural England] may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—

- (a) give notice to the persons mentioned in subsection (2) withdrawing the notification, or
- (b) give notice to those persons confirming the notification, or confirming it in relation to an area of land specified in the notice which is smaller than that specified in the notification under subsection (2),

but if they do neither the notification shall cease to have effect.

- (6) A notification under subsection (2) shall have effect in relation to any land as from the time a notice under subsection (5)(b) is served on its owner or occupier, and from that time a notification under section 28(1)(b) in relation to that land shall cease to have effect.
- (7) A local land charge existing by virtue of section 28(9) shall be discharged in relation to land which is the subject of a notice under subsection (5)(b).]

#### **Textual Amendments**

- **F181** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)
- **F182** Words in s. 28D substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
- F183 Words in s. 28D(1) renumbered (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) as s. 28D(1)(a) by virtue of Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), Sch. 13 para. 9(2); S.I. 2014/3088, art. 2(b)
- **F184** Words in s. 28D substituted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 56, 107; S.I. 2006/1382, art. 2
- **F185** S. 28D(1)(b) and preceding word inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(2)**; S.I. 2014/3088, art. 2(b)
- **F186** Words in s. 28D(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(3)(a)**; S.I. 2014/3088, art. 2(b)
- **F187** Words in s. 28D(2)(a) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(3)(b)**; S.I. 2014/3088, art. 2(b)
- **F188** Words in s. 28D(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(4)**; S.I. 2014/3088, art. 2(b)

### **Marginal Citations**

**M16** 1991 c. 56.

M17 1991 c. 59.

# [F18928E Duties in relation to sites of special scientific interest.

- (1) The owner or occupier of any land included in a site of special scientific interest shall not while the notification under section 28(1)(b) remains in force carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
  - (a) one of them has, after service of the notification, given [F190] Natural England] notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and

- (b) one of the conditions specified in subsection (3) is fulfilled.
- (2) Subsection (1) does not apply to an owner or occupier being an authority to which section 28G applies acting in the exercise of its functions.
- (3) The conditions are—
  - (a) that the operation is carried out with [F191] Natural England's written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act [F192], section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2006];
  - (c) that the operation is carried out in accordance with a management scheme under section 28J or a management notice under section 28K.
- (4) A consent under subsection (3)(a) may be given—
  - (a) subject to conditions, and
  - (b) for a limited period,

as specified in the consent.

- (5) If [F190] Natural England] do not consent, they shall give notice saying so to the person who gave the notice under subsection (1).
- (6) [F190] Natural England] may, by notice given to every owner and occupier of any of the land included in the site of special scientific interest, or the part of it to which the consent relates—
  - (a) withdraw the consent; or
  - (b) modify it (or further modify it) in any way.
- (7) The following—
  - (a) a consent under subsection (3)(a) granting consent subject to conditions or for a limited period, and
  - (b) a notice under subsection (5) or (6),

must include a notice of [F191]Natural England's] reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in subsection (8).

- (8) The matters referred to in subsection (7) are—
  - (a) the rights of appeal under section 28F;
  - (b) the effect of subsection (9); and
  - (c) in the case of a notice under subsection (6), the effect of section 28M.
- (9) A withdrawal or modification of a consent is not to take effect until—
  - (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (10) [F190] Natural England shall have power to enforce the provisions of this section.

#### **Textual Amendments**

**F189** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F190** Words in s. 28E substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

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F191 Words in s. 28E substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
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**F192** Words in s. 28E(3)(b) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 80; S.I. 2006/2541, art.2

### **Modifications etc. (not altering text)**

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C15 S. 28E(1) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(a) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 6)
S. 28E(1) excluded (30.1.2001) by 1996 c. 61, s. 38, Sch. 10 para. 6(a) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 11)
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# [F19328F Appeals in connection with consents.

- (1) The following persons—
  - (a) an owner or occupier who has been refused a consent under section 28E(3)(a),
  - (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
  - (c) an owner or occupier who is aggrieved by the modification of a consent;
  - (d) an owner or occupier who is aggrieved by the withdrawal of a consent, may by notice appeal to the Secretary of State against the relevant decision.
- (2) If [F194]Natural England] neither give consent nor refuse it within the period of four months beginning with the date on which the notice referred to in section 28E(1)(a) was sent, the person who gave that notice may for the purposes of subsection (1) treat [F194]Natural England] as having refused consent (and his appeal is to be determined on that basis).
- (3) Notice of an appeal must reach the Secretary of State—
  - (a) except in a case falling within subsection (2), within the period of two months beginning with the date of the notice giving consent or the notice under section 28E(5) or (6), or
  - (b) in a case falling within subsection (2), within the period of two months beginning immediately after the expiry of the four-month period referred to there.

or, in either case, within such longer period as is agreed in writing between [F194]Natural England] and the appellant.

- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,

and he must act as mentioned in paragraph (a) or (b) if either party to the appeal asks to be heard in connection with the appeal.

- (5) On determining an appeal against a decision, the Secretary of State may—
  - (a) affirm the decision,
  - (b) where the decision was a refusal of consent, direct [F194Natural England] to give consent,

- (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
- (d) where the decision was a withdrawal or modification of consent, quash the decision,

and where he exercises any of the powers in paragraphs (b), (c) or (d) he may give directions to [F194]Natural England] as to the terms on which they are to give consent.

- (6) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
  - (a) notices of appeal and supporting documentation required, and
  - (b) how appeals are to be brought and considered,

and any such regulations may make different provision for different cases and circumstances.

- (7) A statutory instrument containing regulations under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (9) Schedule 10A shall have effect with respect to appointments under subsection (8).
- (10) Subsections (2) to (5) of section 250 of the M18 Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
  - (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (11) Section 322A of the M19 Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.

#### **Textual Amendments**

**F193** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F194** Words in s. 28F substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

### **Marginal Citations**

**M18** 1972 c. 70. **M19** 1990 c. 8.

### [F19528G Statutory undertakers, etc.: general duty.

(1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as "a section 28G authority") shall have the duty set out in subsection (2)

in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

- (2) The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- (3) The following are section 28G authorities—
  - (a) a Minister of the Crown (within the meaning of the Ministers of the M20 Crown Act 1975) or a Government department;
  - (b) the National Assembly for Wales;
  - (c) a local authority;
  - (d) a person holding an office—
    - (i) under the Crown,
    - (ii) created or continued in existence by a public general Act of Parliament, or
    - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
  - (e) a statutory undertaker F196 . . . ; and
  - (f) any other public body of any description.
- [ "Statutory undertaker" means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990. ]]

#### **Textual Amendments**

**F195** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F196** Words in s. 28G(3)(e) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 81(2), Sch. 12; S.I. 2006/2541, art.2

**F197** S. 28G(4) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 81(3)**; S.I. 2006/2541, **art.2** 

### **Modifications etc. (not altering text)**

C16 S. 28G(2) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(b) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 6)
S. 28G(2) excluded (30.1.2001) by 1996 c. 61, s. 38, Sch. 10 para. 6(b) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 11)

### **Marginal Citations**

M20 1975 c. 26.

### [F19828H Statutory undertakers, etc.: duty in relation to carrying out operations.

(1) A section 28G authority shall give notice to [F199] Natural England] before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

- (2) Subsection (1) applies even if the operations would not take place on land included in a site of special scientific interest.
- (3) In response to the notice referred to in subsection (1), [F199] Natural England] may send a notice—
  - (a) saying that they do not assent to the proposed operations, or
  - (b) assenting to them (with or without conditions),

but if they do not send a notice under paragraph (b) within the period of 28 days beginning with the date of the notice under subsection (1) they shall be treated as having declined to assent.

- (4) If [F199] Natural England] do not assent, or if the authority proposes to carry out the operations otherwise than in accordance with the terms of the Council's assent, the authority—
  - (a) shall not carry out the operations unless the condition set out in subsection (5) is satisfied, and
  - (b) shall comply with the requirements set out in subsection (6) when carrying them out.
- (5) The condition is that the authority has, after the expiry of the period of 28 days beginning with the date of the notice under subsection (1), notified the Council of—
  - (a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and
  - (b) how (if at all) it has taken account of any written advice it received from [F199]Natural England], before the date of the notification under this paragraph, in response to the notice under subsection (1).
- (6) The requirements are—
  - (a) that the authority carry out the operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological or physiographical features by reason of which the site is of special interest (taking account, in particular, of any such advice as is referred to in subsection (5)(b)); and
  - (b) that the authority restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.]

### **Textual Amendments**

**F198** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F199** Words in s. 28H substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

# [F200 28I Statutory undertakers, etc.: duty in relation to authorising operations.

- (1) This section applies where the permission of a section 28G authority is needed before operations may be carried out.
- (2) Before permitting the carrying out of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special

- scientific interest is of special interest, a section 28G authority shall give notice of the proposed operations to  ${\tt [^{F201}Natural\ England]}$ .
- (3) Subsection (2) applies even if the operations would not take place on land included in a site of special scientific interest.
- (4) The authority shall wait until the expiry of the period of 28 days beginning with the date of the notice under subsection (2) before deciding whether to give its permission, unless [F201] Natural England] have notified the authority that it need not wait until then.
- (5) The authority shall take any advice received from [F201Natural England] into account—
  - (a) in deciding whether or not to permit the proposed operations, and
  - (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.
- (6) If [F201] Natural England] advise against permitting the operations, or advise that certain conditions should be attached, but the section 28G authority does not follow that advice, the authority—
  - (a) shall give notice of the permission, and of its terms, to [F201] Natural England], the notice to include a statement of how (if at all) the authority has taken account of the Council's advice, and
  - (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.
- (7) In this section "permission", in relation to any operations, includes authorisation, consent, and any other type of permission (and "permit" and "permitting" are to be construed accordingly).

#### **Textual Amendments**

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F200 Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 1 (with Sch. 11 paras. 1-17, 20)
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**F201** Words in s. 28I substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2** 

### **Modifications etc. (not altering text)**

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C17 S. 28I excluded (30.1.2001) by 1987 c. 53, s. 9(7) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 6)
S. 28I excluded (30.1.2001) by 1996 c. 61, s. 38, Sch. 10 para. 6 (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. II para. 11)
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# [F20228J Management schemes.

- (1) [F203] Natural England] may formulate a management scheme for all or part of a site of special scientific interest.
- (2) A management scheme is a scheme for—
  - (a) conserving the flora, fauna, or geological or physiographical features by reason of which the land (or the part of it to which the scheme relates) is of special interest; or
  - (b) restoring them; or
  - (c) both.

- (3) [F203] Natural England] shall serve notice of a proposed management scheme on every owner and occupier of any of the land (or the part of it to which the scheme would relate); but it may be served on them only after they have been consulted about the proposed management scheme.
- (4) The notice may be served with the notification referred to in section 28(1)(b) or afterwards.
- (5) The owners and occupiers upon whom the notice must be served (referred to in this section as "the relevant owners and occupiers") are—
  - (a) if it is served with the notification under section 28(1)(b), or later but before the notification referred to in section 28(5)(b), the owners and occupiers referred to in section 28(1)(b);
  - (b) if it is served with the notification under section 28(5)(b) or later, the owners and occupiers of such of the land as remains subject to the notification.
- (6) The notice of a proposed management scheme must include a copy of the proposed scheme.
- (7) The notice must specify the time (not being less than three months from the date of the giving of the notice) within which, and the manner in which, representations or objections with respect to the proposed management scheme may be made; and [F203] Natural England] shall consider any representation or objection duly made.
- (8) Where a notice under subsection (3) has been given, [F203] Natural England] may within the period of nine months beginning with the date on which the notice was served on the last of the relevant owners and occupiers either—
  - (a) give notice to the relevant owners and occupiers withdrawing the notice, or
  - (b) give notice to them confirming the management scheme (with or without modifications).

and if notice under paragraph (b) is given, the management scheme shall have effect from the time the notice is served on all of the relevant owners or occupiers.

- (9) A notice under subsection (3) shall cease to have effect—
  - (a) on the giving of a notice of withdrawal under subsection (8)(a) to any of the relevant owners and occupiers; or
  - (b) if not withdrawn or confirmed by notice under subsection (8) within the period of nine months referred to there, at the end of that period.
- (10) [F204] Natural England's] power under subsection (8)(b) to confirm a management scheme with modifications shall not be exercised so as to make complying with it more onerous.
- (11) [F203] Natural England] may at any time cancel or propose the modification of a management scheme.
- (12) In relation to—
  - (a) the cancellation of a management scheme, subsections (3) to (5) apply, and
  - (b) a proposal to modify a management scheme, subsections (3) to (10) apply, as they apply in relation to a proposal for a management scheme.
- (13) An agreement under section 16 of the 1949 Act or section 15 of the 1968 Act relating to a site of special scientific interest may provide for any matter for which a management scheme relating to that site provides (or could provide).]

#### **Textual Amendments**

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**F202** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F203** Words in s. 28J substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

**F204** Words in s. 28J substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

# [F20528K Management notices.

- (1) Where it appears to [F206] Natural England] that—
  - (a) an owner or occupier of land is not giving effect to a provision of a management scheme, and
  - (b) as a result any flora, fauna or geological or physiographical features by reason of which the land is of special interest are being inadequately conserved or restored,

they may if they think fit serve a notice on him (a "management notice").

- (2) They may not serve a management notice unless they are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land in accordance with the management scheme.
- (3) A management notice is a notice requiring the owner or occupier to—
  - (a) carry out such work on the land, and
  - (b) do such other things with respect to it,

as are specified in the notice, and to do so before the dates or within the periods so specified.

- (4) The work and other things specified in the notice must appear to [F206] Natural England] to be measures which it is reasonable to require in order to ensure that the land is managed in accordance with the management scheme.
- (5) The management notice must explain the effect of subsection (7) and (8) and of sections 28L and 28M(2) to (4).
- (6) A copy of the management notice must be served on every other owner and occupier of the land.
- (7) If any of the work or other things required by a management notice have not been done within the period or by the date specified in it, [F206] Natural England may—
  - (a) enter the land, and any other land, and carry out the work, or do the other things; and
  - (b) recover from the owner or occupier upon whom the notice was served any expenses reasonably incurred by them in carrying out the work or doing the other things.
- (8) If an appeal is brought against the management notice, and upon the final determination of the appeal the notice is affirmed (with or without modifications), subsection (7) applies as if the references there to the management notice were to the notice as affirmed.]

#### **Textual Amendments**

**F205** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F206** Words in s. 28J substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

# [F20728L Appeals against management notices.

- (1) A person who is served with a management notice may appeal against its requirements to the Secretary of State; and a management notice does not take effect until—
  - (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (2) An appeal may be on the ground that some other owner or occupier of the land should take all or any of the measures specified in the management notice, or should pay all or part of their cost.
- (3) Where the grounds of appeal are, or include, that mentioned in subsection (2), the appellant must serve a copy of his notice of appeal on each other person referred to.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,

and he must act as mentioned in paragraph (a) or (b) if either party to the appeal (or, in a case falling within subsection (2), any of the other persons mentioned there) asks to be heard in connection with the appeal.

- (5) On determining the appeal, the Secretary of State may quash or affirm the management notice; and if he affirms it, he may do so either in its original form or with such modifications as he thinks fit.
- (6) In particular, on determining an appeal whose grounds are, or include, those mentioned in subsection (2), the Secretary of State may—
  - (a) vary the management notice so as to impose its requirements (or some of them) upon any such other person as is referred to in the grounds; or
  - (b) determine that a payment is to be made by any such other person to the appellant.
- (7) In exercising his powers under subsection (6), the Secretary of State must take into account, as between the appellant and any of the other people referred to in subsection (2)—
  - (a) their relative interests in the land (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
  - (b) their relative responsibility for the state of the land which gives rise to the requirements of the management notice; and
  - (c) the relative degree of benefit to be derived from carrying out the requirements of the management notice.

- (8) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
  - (a) the period within which and the manner in which appeals are to be brought,
     and
  - (b) the manner in which they are to be considered, and any such regulations may make different provision for different cases or circumstances.
- (9) A statutory instrument containing regulations under subsection (8) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (11) Schedule 10A shall have effect with respect to appointments under subsection (10).
- (12) Subsections (2) to (5) of section 250 of the M21 Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
  - (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (13) Section 322A of the M22 Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.

#### **Textual Amendments**

**F207** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

### **Marginal Citations**

**M21** 1972 c. 70. **M22** 1990 c. 8.

# IF20828MPayments.

- (1) Where [F209] Natural England], under section 28E(6), modify or withdraw a consent, they shall make a payment to any owner or occupier of the land who suffers loss because of the modification or withdrawal.
- (2) [F209] Natural England] may, if they think fit, make one or more payments to any owner or occupier of land in relation to which a management scheme under section 28J is in force.
- (3) The amount of a payment under this section is to be determined by [F209] Natural England] in accordance with guidance given and published by the Ministers.

(4) Section 50(3) applies to the determination of the amount of payments under this section as it applies to the determination of the amount of payments under that section.]

#### **Textual Amendments**

**F208** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F209** Words in s. 28M substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

### [F21028N Compulsory purchase.

- (1) [F211] Natural England] may in circumstances set out in subsection (2) acquire compulsorily all or any part of a site of special scientific interest.
- (2) The circumstances are—
  - (a) that [F211]Natural England] are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land; or
  - (b) that [F211] Natural England] have entered into such an agreement, but they are satisfied that it has been breached in such a way that the land is not being managed satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) is to be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where [F211] Natural England] have acquired land compulsorily under this section, they may—
  - (a) manage it themselves; or
  - (b) dispose of it, or of any interest in it, on terms designed to secure that the land is managed satisfactorily.
- (5) Section 103 of the 1949 Act (general provisions as to acquisition of land) applies for the purposes of this section as it applies for the purposes of that Act.]

#### **Textual Amendments**

**F210** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F211** Words in s. 28N substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

### [F212 28P Offences.

(1) A person who, without reasonable excuse, contravenes section 28E(1) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

- (2) A section 28G authority which, in the exercise of its functions, carries out an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
  - (a) without first complying with section 28H(1), or
  - (b) (if it has complied with section 28H(1)) without first complying with section 28H(4)(a),

is, unless there was a reasonable excuse for carrying out the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

- (3) A section 28G authority acting in the exercise of its functions which, having complied with section 28H(1), fails without reasonable excuse to comply with section 28H(4) (b) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.
- (4) For the purposes of subsections (1), (2) and (3), it is a reasonable excuse in any event for a person to carry out an operation (or to fail to comply with a requirement to send a notice about it) if—
  - (a) subject to subsection (5), the operation in question was authorised by a planning permission granted on an application under Part III of the M23 Town and Country Planning Act 1990 or permitted by a section 28G authority which has acted in accordance with section 28I; or
  - (b) the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to [F213] Natural England] as soon as practicable after the commencement of the operation.
- (5) If an operation needs both a planning permission and the permission of a section 28G authority, subsection (4)(a) does not provide reasonable excuse unless both have been obtained.
- [ A section 28G authority which, in the exercise of its functions, permits the carrying out F214(5A) of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
  - (a) without first complying with section 28I(2), or
  - (b) where relevant, without first complying with section 28I(4) or (6),

is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

- (5B) For the purposes of subsection (5A), it is a reasonable excuse in any event for a section 28G authority to permit the carrying out of an operation without first complying with section 28I(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to Natural England as soon as practicable after the permission was given.]
  - (6) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—
    - (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special interest, or intentionally or recklessly disturbs any of those fauna, and
    - (b) knew that what he destroyed, damaged or disturbed was within a site of special scientific interest,

is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

[ A person (other than a section 28G authority acting in the exercise of its functions)  $^{\text{F215}}(6A)$  who without reasonable excuse—

- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or
- (b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

- (7) It is a reasonable excuse in any event for a person to do what is mentioned in subsection (6) [F216 or (6A)] if—
  - (a) paragraph (a) or (b) of subsection (4) is satisfied in relation to what was done (reading references there to an operation as references to the destruction, damage or disturbance referred to in subsection (6) [F217] or (6A)]), and
  - (b) where appropriate, subsection (5) is also satisfied, reading the reference there to an operation in the same way.
- (8) A person who without reasonable excuse fails to comply with a requirement of a management notice is guilty of an offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (10) Proceedings in England and Wales for an offence under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than [F213] Natural England].
- (11) In this section, "a section 28G authority" means an authority to which section 28G applies.

#### **Textual Amendments**

- **F212** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)
- **F213** Words in s. 28P substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2
- **F214** S. 28P(5A)(5B) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 55(2), 107; S.I. 2006/2541, art. 2
- **F215** S. 28P(6A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 55(3), 107; S.I. 2006/2541, art. 2
- **F216** Words in s. 28P(7) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 55(4), 107; S.I. 2006/2541, art. 2
- **F217** Words in s. 28P(7) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 55(4), 107; S.I. 2006/2541, art. 2

### **Marginal Citations**

M23 1990 c. 8.

### [F21828Q Change of owner or occupier.

- (1) This section applies where the owner of land included in a site of special scientific interest—
  - (a) disposes of any interest of his in the land; or
  - (b) becomes aware that it is occupied by an additional or a different occupier.
- (2) If this section applies, the owner shall send a notice to [F219] Natural England] before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.
- (3) The notice is to specify the land concerned and—
  - (a) in a subsection (1)(a) case, the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or
  - (b) in a subsection (1)(b) case, the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner's knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.
- (4) A person who fails without reasonable excuse to comply with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) For the purposes of subsection (1), an owner "disposes of" an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.

#### **Textual Amendments**

**F218** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F219** Words in s. 28Q substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

# [F220 28R Byelaws.

- (1) [F221] Natural England] may make byelaws for the protection of a site of special scientific interest.
- (2) The following provisions of the 1949 Act apply in relation to byelaws under this section as they apply in relation to byelaws under section 20 of that Act—
  - (a) subsections (2) and (3) of section 20 (reading references there to nature reserves as references to sites of special scientific interest); and
  - (b) sections 106 and 107.]

### **Textual Amendments**

**F220** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with Sch. 11 paras. 1-17, 20)

**F221** Words in s. 28R substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

# [F22228S Notices and signs relating to SSSIs

- (1) Natural England may, on any land included in a site of special scientific interest, put up and maintain notices or signs relating to the site.
- (2) Natural England may remove any notice or sign put up under subsection (1).
- (3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under subsection (1) is guilty of an offence.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

#### **Textual Amendments**

**F222** S. 28S inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 58(1), 107; S.I. 2006/2541, art. 2

### 29 Special protection for certain areas of special scientific interest.

F223	3																

### **Textual Amendments**

**F223** S. 29 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 102, 103(2), Sch. 9 para. 2, Sch. 16 Pt. III and s. 29 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7 para. 4** (with transitional provisions and savings in Sch. 5 Pt. II para. 11); S.S.I. 2004/495, **art. 2** 

### 30 Compensation where order is made under s. 29.

F22																			
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#### **Textual Amendments**

**F224** S. 30 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 102, 103(2), Sch. 9 para. 2, Sch. 16 Pt. III and s. 30 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7 para. 4**; S.S.I. 2004/495, **art. 2** 

# 31 [F225 Restoration following offence under section 28P.] E+W

[F226(1) Where—

- (a) the operation in respect of which a person is convicted of an offence under section 28P(1), (2) or (3) has destroyed or damaged any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or
- (b) a person is convicted of an offence under section 28P(6) [F227] or (6A)], the court by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations (whether on land included in the site of special scientific

interest or not) as may be so specified for the purpose of restoring the site of special scientific interest to its former condition.]

- (2) An order under this section made on conviction on indictment shall be treated for the purposes of sections 30 and 42(1) and (2) of the M24Criminal Appeal Act 1968 (effect of appeals on orders for the restitution of property) as an order for the restitution of property; and where by reason of the quashing by the Court of Appeal of a person's conviction any such order does not take effect, and on appeal to [F228the Supreme Court] the conviction is restored by [F228the Supreme Court], [F228the Supreme Court] may make any order under this section which could be made on his conviction by the court which convicted him.
- (3) In the case of an order under this section made by a magistrates' court the period specified in the order shall not begin to run—
  - (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;
  - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (4) At any time before an order under this section has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.
- (5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—
  - (a) to a fine not exceeding [F229] level 5 on the standard scale]; and
  - (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, [F230] Natural England] may enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.
- (7) In the application of this section to Scotland—
  - (a) subsections (2) and (3) shall not apply; and
  - (b) for the purposes of any appeal or review, an order under this section is a sentence.

#### **Extent Information**

**E22** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

F225 S. 31 sidenote substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 3(3)

F226 S. 31(1) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 3(2)

**F227** Words in s. 31(1)(b) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 55(5), 107; S.I. 2006/2541, art. 2

- **F228** Words in s. 31(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9** para. 37; S.I. 2009/1604, art. 2(a)(d)
- F229 Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G
- **F230** Words in s. 31 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2

### **Marginal Citations**

M24 1968 c. 19.

31	Restoration where order under s. 29 is contravened.	S

F681	l																

#### **Extent Information**

E51 This version of this provision extends to Scotland only; a separate version has been created for England and Wales

### **Textual Amendments**

**F681** S. 31 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

# Duties of agriculture Ministers with respect to areas of special scientific interest. E+W

- (1) Where an application for [F231] a farm capital grant] is made as respects expenditure incurred or to be incurred for the purpose of activities on [F232] land included in a site of special scientific interest]..., the appropriate Minister—
  - (a) shall, so far as may be consistent with the purposes of [F233]the grant provisions], so exercise his functions thereunder as to further the conservation of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
  - (b) where [F234Natural England] have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.
- (2) Where, in consequence of an objection by [F234Natural England], an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (1) (b), [F234Natural England] shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act—
  - (a) imposing restrictions as respects those activities; and
  - (b) providing for the making by them of payments to the applicant.

[F235(3) In this section—

- "the appropriate Minister" means the Minister responsible for determining the application;
  - "farm capital grant" means—
- a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;
  - "grant provisions" means—
- in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and
- in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the [F127EU] instrument in pursuance of which the regulations were made. ]

### **Extent Information**

E23 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- F127 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- **F231** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), **s. 20(2)**(*a*)
- F232 Words in s. 32(1) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 4
- **F233** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(2)(b)
- F234 Words in s.32 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, art. 2
- F235 S. 32(3) substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(3)

32	Duties of agriculture Ministers with respect to areas of special scientific
	interest. S

F682															

#### **Extent Information**

E52 This version of this provision extends to Scotland only; a separate version has been created for England and Wales

#### **Textual Amendments**

F682 S. 32 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

F23633	Ministerial guidance as respects areas of special scientific interest

#### **Textual Amendments**

**F236** S. 33 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7** para. 4; S.S.I. 2004/495, art. 2

# 34 Limestone pavement orders. E+W

- [F237(1) Natural England must notify any local planning authority of any limestone pavement in that authority's area.]
  - (2) Where it appears to the Secretary of State or the relevant authority that the character or appearance of any land notified under subsection (1) would be likely to be adversely affected by the removal of the limestone or by its disturbance in any way whatever, the Secretary of State or that authority may make an order (in this section referred to as a "limestone pavement order") designating the land and prohibiting the removal or disturbance of limestone on or in it; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of limestone pavement orders.
  - (3) The relevant authority may, after consultation with [F238Natural England], amend or revoke a limestone pavement order made by the authority; and the Secretary of State may, after such consultation as aforesaid, amend or revoke any such order made by him or that authority but, in the case of an order made by that authority, only after consultation with that authority.
  - (4) If any person without reasonable excuse removes or disturbs limestone on or in any land designated by a limestone pavement order he shall be liable—
    - (a) on summary conviction, to a fine not exceeding  $[^{\text{F239}}£20,000]$ ;
    - (b) on conviction on indictment, to a fine.
  - (5) It is a reasonable excuse in any event for a person to remove or disturb limestone or cause or permit its removal or disturbance, if the removal or disturbance was authorised by a planning permission granted on an application under [F240Part III of the Town and Country Planning Act 1990]....

1241
"limestone pavement" means an area of limestone which lies wholly or partly exposed on the surface of the ground and has been fissured by natural erosion;
[F242 " the relevant authority " means—
<ul> <li>(a) in relation to a non-metropolitan county [F243 in England], the county planning authority and, in relation to any other area in England, the local planning authority;</li> </ul>
(aa) [F244 in relation to any area in Wales, the local planning authority;]

### **Extent Information**

(6) In this section—

E24 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

(b) F245 ......

#### **Textual Amendments**

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- **F237** S. 34(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 83(2)**; S.I. 2006/2541, **art. 2**
- **F238** Words in s. 34(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107), {Sch. 11 para. 83(3)}; S.I. 2006/2541, **art. 2**
- **F239** Words in s. 34(4)(a) substituted (30.1.2001) by 2000 c. 37, ss. 78(1), 103(2)
- **F240** Words in s. 34(5) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 54(1)
- **F241** S. 34(6): definition of "the agency" repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 83(5)(a), **Sch. 12**; S.I. 2006/2541, **art.** 2
- **F242** Definition in s. 34(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(2)
- **F243** Words in s. 34(1)(3)(6) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(3)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- **F244** Para. (aa) in the definition of "the relevant authority" in s. 34(6) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- **F245** S. 34(6): para. (b) definition of "the relevant authority" repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 83(5)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**

#### **Modifications etc. (not altering text)**

C18 S. 34(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

34	Limestone	pavement orders.	5
J <b>-</b>	Limestone	pavement or uers.	

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#### **Extent Information**

E53 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

# **Textual Amendments**

**F683** S. 34 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7** para. 4; S.S.I. 2004/495, art. 2

[F<sup>246</sup>Nature reserves, [F<sup>247</sup> marine nature reserves] and Ramsar sites

#### **Textual Amendments**

- **F246** S. 34A and preceding cross-heading inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 84; S.I. 2006/2541, art. 2
- F247 Words in cross-heading preceding s. 34A omitted (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by virtue of Marine and Coastal Access Act 2009 (c. 23), ss. 146(1), 324(2)(b)(i), Sch. 11 para. 2(3) (with s. 145); S.I. 2014/3088, art. 2(b); and those

same words repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), Sch. 4 para. 5(a) (with s. 162); S.S.I. 2010/230, art. 2(h)

# 34A Meaning of "appropriate conservation body"

In the following provisions of this Part "the appropriate conservation body" means—

- (a) in relation to England, Natural England;
- (b) in relation to Wales, the Countryside Council for Wales;
- (c) in relation to Scotland, Scottish Natural Heritage.

# X335 National nature reserves.

- (1) Where [F248the appropriate conservation body] are satisfied that any land which—
  - (a) is being managed as a nature reserve under an agreement entered into with [F248the appropriate conservation body];
  - (b) is held by [F248the appropriate conservation body] and is being managed by them as a nature reserve; or
  - (c) is held by an approved body and is being managed by that body as a nature reserve,

is of national importance, they may declare that land to be a national nature reserve.

[ The land which may be declared to be a national nature reserve in England or Wales  $^{\text{F249}}(1A)$  includes—

- (a) any land lying above mean low water mark;
- (b) any land covered by estuarial waters.
- (1B) Where the area of land to which a declaration under subsection (1) relates includes land falling within subsection (1A)(a) or (b) ("area A"), it may also include land not falling within subsection (1A)(a) or (b) ("area B") if—
  - (a) area B adjoins area A, and
  - (b) any of the conditions in subsection (1C) is satisfied.

# (1C) The conditions are—

- (a) that the flora, fauna or features leading to the management of area A as a nature reserve is or are also present in area B;
- (b) that the management of area A as a nature reserve is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
- (c) that, without the inclusion of area B, the identification of the boundary of the land declared to be a national nature reserve (either in the declaration or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.
- (1D) The ministerial authority may issue guidance to the appropriate conservation body about the exercise of the power conferred by subsection (1B) to make a declaration in relation to land lying below mean low water mark.

"The ministerial authority" has the meaning given by section 35A(12).]

(2) A declaration by [F248the appropriate conservation body] that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5)

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- of section 19 of the 1949 Act shall apply in relation to any such declaration as they apply in relation to a declaration under that section.
- (3) On the application of the approved body concerned, [F248 the appropriate conservation body], as respects any land which is declared to be a national nature reserve under subsection (1)(c), make byelaws for the protection of the reserve.
- (4) Subsections (2) and (3) of section 20 and section 106 of the 1949 Act shall apply in relation to byelaws under this section as they apply in relation to byelaws under the said section 20.
- (5) In this section—

"approved body" means a body approved by [F248the appropriate conservation body] for the purposes of this section;

"nature reserve" has the same meaning as in Part III of the 1949 Act.

## **Editorial Information**

X3 The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Textual Amendments**

**F248** Words in s. 35 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 85; S.I. 2006/2541, art. 2

**F249** S. 35(1A)-(1D) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 10** (with Sch. 13 para. 10(2)); S.I. 2014/3088, art. 2(b)

# Power to call in subtidal declarations

- F25035A
  (1) This section applies where—
  - (a) the appropriate conservation body propose to declare land to be a national nature reserve under section 35(1), and
  - (b) the land to which the proposed declaration relates includes, by virtue of section 35(1B), land lying below mean low water mark ("the subtidal land").
  - (2) The appropriate conservation body may not declare the reserve unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.
  - (3) At any time before the reserve is declared the ministerial authority may give notice to the appropriate conservation body that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
  - (4) If the ministerial authority gives notice under subsection (3), the appropriate conservation body may not declare the reserve until the ministerial authority has given a direction under subsection (5).
  - (5) The ministerial authority may direct—
    - (a) that the reserve (if declared) must include all of the subtidal land;
    - (b) that the reserve (if declared) must not include any of the subtidal land;

- (c) that the reserve (if declared) must, or must not, include such part of that land as is specified in the direction;
- (d) that the decision whether the reserve (if declared) should include the subtidal land is to be taken by the appropriate conservation body.
- (6) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (7) A person appointed under subsection (6) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (8) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (6).
- (9) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (10) A statutory instrument containing regulations made under subsection (8) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) A statutory instrument containing regulations made under subsection (8) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this section "the ministerial authority" means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

#### **Textual Amendments**

**F250** S. 35A inserted (E.W.) (12.11.2009 for certain purposes, 12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(1)(c)(2)(b)(ii), **Sch. 13** para. 11; S.I. 2014/3088, art. 2(b)

# X436 Marine nature reserves. E+W

- [F251(1)] Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea [F252] which are landward of the baselines from which the breadth of the territorial sea adjacent to Great Britain is measured or are seaward of those baselines up to a distance of three nautical miles], it appears to the Secretary of State expedient, on an application made by [F253] the appropriate conservation body], that the land and waters covering it should be managed by [F253] the appropriate conservation body] for the purpose of—
  - (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or
  - (b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and

the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,

he may by order designate the area comprising that land and those waters as a marine nature reserve; and [F253] the appropriate conservation body] shall manage any area so designated for either or both of those purposes.

- (2) An application for an order under this section shall be accompanied by—
  - (a) a copy of the byelaws which, if an order is made, [F253] the appropriate conservation body] propose making under section 37 for the protection of the area specified in the application; and
  - (b) a copy of any byelaws made or proposed to be made for the protection of that area by a relevant authority;

and an order made on the application shall authorise the making under that section of such of the byelaws proposed to be made by [F253 the appropriate conservation body] as may be set out in the order with or without modifications.

- (3) Byelaws the making of which is so authorised—
  - (a) shall not require the Secretary of State's consent under subsection (1) of section 37; and
  - (b) notwithstanding anything in the provisions applied by subsection (4) of that section, shall take effect on their being made.
- (4) The provisions of Schedule 12 shall have effect as to the making, validity and date of coming into operation of orders under this section; and an order made under this section may be amended or revoked by a subsequent order so made.
- (5) The powers exercisable by [F253 the appropriate conservation body] for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.
- (6) Nothing in this section or in byelaws made under section 37 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).
- (7) In this section—

"enactment" includes an enactment contained in a local Act; "local authority" means—

- (a) in relation to England and Wales, a county council, [F254a county borough council,] a district council, F255... or a London borough council;
- (b) in relation to Scotland, a [F256 council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[F257 "nautical miles" means international nautical miles of 1,852 metres;]

"relevant authority" means a local authority, [F258the National Rivers Authority, a water undertaker, a sewerage undertaker,] an internal drainage board, a navigation authority, a harbour authority, F259..., a lighthouse authority, a conservancy authority, [F260the Scottish Environment Protection Agency], a district board for a fishery district within the meaning of the M25 Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the M26 Sea Fisheries Regulation Act 1966.]

#### **Editorial Information**

X4 The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Extent Information**

**E25** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- **F251** S. 36 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), **Sch. 22 Pt. 3** (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 36 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(b)** (with s. 162); S.S.I. 2010/230, **art. 2(h)**
- F252 Words substituted by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(1)(2), Sch. 1 para. 6(a)
- **F253** Words in s. 36 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 35; S.I. 2006/2541, art. 2
- **F254** Words in s. 36(7) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(4)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F255 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
- **F256** Words in s. 36(7) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 125(3**); S.I. 1996/323, **art. 4(1)(b)(c)**
- **F257** Definition inserted by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(1), Sch. 1 para. 6(b)
- **F258** S. 36(7): Words in definition of "relevant authority" substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 66(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F259 Words repealed by Pilotage Act 1987 (c. 21, SIF 111), s. 32(5), Sch. 3
- F260 Words in s. 36(7) substituted (S.) (1.4.1996) by S.I. 1996/973, reg. 2, Sch. para. 6

## **Modifications etc. (not altering text)**

C19 S. 36(1): power to extend conferred by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(2)(b)

# **Marginal Citations**

**M25** 1862 c. 97.

M26 1966 c. 38.

# **X23**36 Marine nature reserves. S

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea [F684] which are landward of the baselines from which the breadth of the territorial sea adjacent to Great Britain is measured or are seaward of those baselines up to a distance of three nautical miles], it appears to the Secretary of State expedient, on an application made by [F685] the appropriate conservation body], that the land and waters covering it should be managed by [F685] the appropriate conservation body] for the purpose of—
  - (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or

(b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,

he may by order designate the area comprising that land and those waters as a marine nature reserve; and [F685] the appropriate conservation body] shall manage any area so designated for either or both of those purposes.

- (2) An application for an order under this section shall be accompanied by—
  - (a) a copy of the byelaws which, if an order is made, [F685the appropriate conservation body] propose making under section 37 for the protection of the area specified in the application; and
  - (b) a copy of any byelaws made or proposed to be made for the protection of that area by a relevant authority;

and an order made on the application shall authorise the making under that section of such of the byelaws proposed to be made by [F685 the appropriate conservation body] as may be set out in the order with or without modifications.

- (3) Byelaws the making of which is so authorised—
  - (a) shall not require the Secretary of State's consent under subsection (1) of section 37; and
  - (b) notwithstanding anything in the provisions applied by subsection (4) of that section, shall take effect on their being made.
- (4) The provisions of Schedule 12 shall have effect as to the making, validity and date of coming into operation of orders under this section; and an order made under this section may be amended or revoked by a subsequent order so made.
- (5) The powers exercisable by [F685the appropriate conservation body] for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.
- (6) Nothing in this section or in byelaws made under section 37 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).
- (7) In this section—

"enactment" includes an enactment contained in a local Act;

"local authority" means-

- (a) in relation to England and Wales, a county council, [F686] a county borough council,] a district council, F687... or a London borough council;
   (b) in relation to Scotland, a [F688] council constituted under section 2 of the
- (b) in relation to Scotland, a [\*688\*council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[F689 "nautical miles" means international nautical miles of 1,852 metres;]

"relevant authority" means a local authority, [F690] Scottish Water] or any other statutory water undertakers, an internal drainage board, a navigation authority, a harbour authority, F691..., a lighthouse authority, a conservancy authority, [F692] the Scottish Environment Protection Agency], a district board for a fishery district within the meaning of the M66 Salmon Fisheries (Scotland) Act 1862, or a local fisheries committee constituted under the M67 Sea Fisheries Regulation Act 1966.

#### **Editorial Information**

**X23** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Extent Information**

**E54** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

- **F684** Words substituted by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(1)(2), **Sch. 1 para. 6(a)**
- **F685** Words in s. 36 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 35; S.I. 2006/2541, art. 2
- **F686** Words in s. 36(7) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(4)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F687 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
- **F688** Words in s. 36(7) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 125(3**); S.I. 1996/323, **art. 4(1)(b)(c)**
- **F689** Definition inserted by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(1), **Sch. 1 para. 6(b)**
- **F690** Words "Scottish Water" substituted (S.) (1.4.2002) for the words "a water authority" by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 7 para. 11(3); S.S.I. 2002/118, art. 2(3)
- **F691** Words repealed by Pilotage Act 1987 (c. 21, SIF 111), s. 32(5), Sch. 3
- **F692** Words in s. 36(7) substituted (S.) (1.4.1996) by S.I. 1996/973, reg. 2, **Sch. para. 6**

# **Modifications etc. (not altering text)**

C38 S. 36(1): power to extend conferred by Territorial Sea Act 1987 (c. 49, SIF 29:1), ss. 1(5), 3(2)(b)

#### **Marginal Citations**

**M66** 1862 c. 97.

M67 1966 c. 38.

# X537 Byelaws for protection of marine nature reserves.

- [F261(1)] [F262the appropriate conservation body] may, with the consent of the Secretary of State make byelaws for the protection of any area designated as a marine nature reserve under section 36.
  - (2) Without prejudice to the generality of subsection (1), byelaws made under this section as respects a marine nature reserve—
    - (a) may provide for prohibiting or restricting, either absolutely or subject to any exceptions—
      - (i) the entry into, or movement within, the reserve of persons and vessels;
      - (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the reserve, or the doing of anything therein which will interfere with the sea bed or damage or disturb any object in the reserve; or
      - (iii) the depositing of rubbish in the reserve;

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into the reserve or the doing of anything which would otherwise be unlawful under the byelaws; and
- may be so made as to apply either generally or with respect to particular parts of the reserve or particular times of the year.
- (3) Nothing in byelaws made under this section shall
  - prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or
  - (b) prohibit, except with respect to particular parts of the reserve at particular times of the year, the exercise of any such right by a pleasure boat.
- (4) Nothing in byelaws so made shall make unlawful
  - anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
  - the discharge of any substance from a vessel; or
  - anything done more than 30 metres below the sea bed.
- (5) Sections 236 to 238 of the M27 Local Government Act 1972 or sections 202 to 204 of the M28Local Government (Scotland) Act 1973 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding the amount there specified and provide for the proof of byelaws in legal proceedings) shall apply to byelaws under this section as if [F262] the appropriate conservation body] were a local authority within the meaning of the said Act of 1972 or the said Act of 1973, so however that in relation to such byelaws the said sections shall apply subject to such modifications (including modifications increasing the maximum fines which the byelaws may impose) as may be prescribed by regulations made by the Secretary of State.

Regulations under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (6) In relation to byelaws under this section the confirming authority for the purposes of the said section 236 or the said section 202 shall be the Secretary of State.
- (7) The Secretary of State may, after consultation with [F262the appropriate conservation body], direct them
  - to revoke any byelaws previously made under this section; or
  - to make any such amendments of any byelaws so made as may be specified in the direction.
- (8) [F262 the appropriate conservation body] shall have power to enforce byelaws made under this section; but nothing in this subsection shall be construed as authorising the Council to institute proceedings in Scotland for an offence.
- (9) Proceedings in England and Wales for an offence under byelaws made under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than [F262the appropriate conservation body].
- (10) In this section "vessel" includes a hovercraft and any aircraft capable of landing on water and "pleasure boat" shall be construed accordingly.
- (11) References in this section to animals or plants of any description include references to eggs, seeds, spores, larvae or other immature stages of animals or plants of that description.]

#### **Editorial Information**

The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Textual Amendments**

F261 S. 37 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), Sch. 22 Pt. 3 (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 37 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), Sch. 4 para. 5(b) (with s. 162); S.S.I. 2010/230, art. 2(h)

F262 Words in s. 37 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 35; S.I. 2006/2541, art. 2

#### **Marginal Citations**

M27 1972 c. 70.

M28 1973 c. 65.

# Ramsar sites.

- (1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of wetlands of international importance referred to in that article, the Secretary of State shall
  - notify [F264] Natural England] if all or part of the wetland is in England;
  - notify the Countryside Council for Wales if it is in Wales; or
  - notify both of them if it is partly in England and partly in Wales.
  - (2) Subject to subsection (3), upon receipt of a notification under subsection (1), each body notified shall, in turn, notify-
    - (a) the local planning authority in whose area the wetland is situated;
    - (b) every owner and occupier of any of that wetland;
    - (c) the Environment Agency; and
    - every relevant undertaker (within the meaning of section 4(1) of the M29Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the M30Land Drainage Act 1991) whose works, operations or activities may affect the wetland.
  - (3) [F264] Natural England] and the Countryside Council for Wales may agree that in a case where the Secretary of State notifies both of them under subsection (1)(c), any notice under subsection (2) is to be sent by one or the other of them (and not both), so as to avoid duplicate notices under that subsection.
  - (4) Subject to subsection (5), the "Ramsar Convention" is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by
    - the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and

- (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987.
- (5) If the Ramsar Convention is further amended after the passing of the Countryside and Rights of Way Act 2000, the reference to the Ramsar Convention in subsection (1) is to be taken after the entry into force of the further amendments as referring to that Convention as further amended (and the reference to paragraph 1 of article 2 is, if necessary, to be taken as referring to the appropriate successor provision).]

#### **Editorial Information**

X6 The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Textual Amendments**

**F263** S. 37A inserted (30.1.2001) by 2000 c. 37, ss. 77, 103(2)

**F264** Words in s. 37A(1)(a)(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 36; S.I. 2006/2541, art. 2

## **Marginal Citations**

M29 1991 c. 56.

M30 1991 c. 59.

<sup>X7F265</sup> 38].																											
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# **Editorial Information**

X7 The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

# **Textual Amendments**

**F265** S. 38 repealed (1.4.1991) by Environmental Protection Act 1990 (c.43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VI**; S.I. 1991/685, **art. 3** 

## Countryside

# 39 Management agreements with owners and occupiers of land.

(1) A relevant authority may, for the purpose of conserving or enhancing the natural beauty or amenity of any land which is F266. . . within their area or promoting its enjoyment by the public, make an agreement (in this section referred to as a "management agreement") with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.

- (2) Without prejudice to the generality of subsection (1), a management agreement—
  - (a) may impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land;
  - (b) may confer on the relevant authority power to carry out works for the purpose of performing their functions under the 1949 Act and the 1968 Act; and
  - (c) may contain such incidental and consequential provisions (including provisions for the making of payments by either party to the other) as appear to the relevant authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the relevant authority against those persons accordingly.
- (4) Schedule 2 to the M31 Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) shall apply to management agreements as it applies to forestry dedication covenants.
- - (e) as respects any land in Wales, the Countryside Council for Wales;
  - (f) as respects land in any area of outstanding natural beauty designated under section 82 of the Countryside and Rights of Way Act 2000 for which a conservation board has been established under section 86 of that Act, that board.]
- (6) The powers conferred by this section on a relevant authority shall be in addition to and not in derogation of any powers conferred on such an authority by or under any enactment.

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Textual Amendments
F266 Words in s. 39(1) repealed (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, ss. 96(a), 102, 103(2), Sch. 16 Pt. VI; S.I. 2001/114, art. 2(2)(m); S.I. 2001/1410, art. 2(q)
F267 S. 39(5)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115); S.I. 1996/2560, art. 2, Sch.
F268 S. 39(5)(aa) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), Sch. 3 para. 31(2)
F269 S. 39(5)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
F270 S. 39(5)(d)-(f) inserted (1.4.2001 for E. and 1.5.2001for W.) by 2000 c. 37, s. 96(b); S.I. 2001/114, art. 2(2)(f); S.I. 2001/1410, art. 2(h)
F271 S. 39(5)(d) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 87, Sch. 12; S.I. 2006/2541, art. 2
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## **Modifications etc. (not altering text)**

C20 S. 39 modified (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)
S. 39 modified (20.9.2006) by The Natural Environment and Rural Communities Act 2006 (Commencement No. 3 and Transitional Provisions) Order 2006 (S.I. 2006/2541), art. 3(1), Sch. para.
5

# **Marginal Citations**

**M31** 1967 c. 10.

# **Experimental schemes.**

For subsections (1) and (2) of section 4 of the 1968 Act (under which the Countryside Commission may submit for the Secretary of State's approval proposals for experimental schemes in relation to particular areas and are required to carry out proposals approved by him) there shall be substituted the following subsection—

- "(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time make and carry out or promote the carrying out of any experimental scheme designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity which—
  - in relation to the countryside generally or to any particular area involves the development or application of new methods, concepts or techniques, or the application or further development of existing methods, concepts or techniques; and
  - (b) is designed to illustrate the appropriateness of the scheme in question for the countryside generally or for any particular area."

# **Editorial Information**

X8 The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

# 41 Duties of agriculture Ministers with respect to the countryside.

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$[^{\mathbf{F}^{272}\mathbf{F}^{273}}(1)\dots]$																										
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- (2) In the exercise of his general duty under section 4(2) of the M32 Small Landholders (Scotland) Act 1911 of promoting the interests of agriculture and other rural industries, and without prejudice to the generality of that duty, the Secretary of State shall make provision, through such organisation as he considers appropriate, for the giving of
  - [F274(a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside;
    - (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
    - (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).]

- (3) Where an application for [F275a farm capital grant] is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park [F276 (including a National Park in Scotland)] or an area specified for the purposes of this subsection by the Ministers, the appropriate Minister—
  - (a) shall, so far as may be consistent with the purposes of the [F277]the grant provisions], so exercise his functions thereunder as to further the conservation and enhancement of the natural beauty and amenity of the countryside and to promote its enjoyment by the public; and
  - (b) where the relevant authority have objected to the making of the grant on the ground that the activities in question have had or will have an adverse effect on the natural beauty or amenity of the countryside or its enjoyment by the public, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State;

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- (4) Where, in consequence of an objection by the relevant authority, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (3)(b), the relevant authority shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—
  - (a) imposing restrictions as respects those activities; and
  - (b) providing for the making by them of payments to the applicant.
- (5) In this section—

[F279 "agricultural business" has the same meaning as in section 29 of the Agriculture Act 1970;]

[F279 "the appropriate Minister", "farm capital grant" and "grant provisions" have the same meanings as in section 32;]

I<sup>F280</sup>"management agreement" means—

- (a) in relation to England, an agreement under section 39 or under section 7 of the Natural Environment and Rural Communities Act 2006, and
- (b) in relation to Wales, an agreement under section 39;

"the relevant authority" has the same meaning as in section 39 except that in relation to England it also includes Natural England.

[F281(5A) For the purposes of this section the Broads shall be treated as a National Park [F282(and, as respects land within the Broads, any reference in this section to the relevant authority is accordingly a reference to the Broads Authority).].]



# **Textual Amendments**

F272 S. 41 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

F273 S. 41(1) repealed by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(5), Sch. 4

**F274** S. 41(2)(a)–(c) substituted for words by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(4), Sch. 3 para. 4

F275 Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(a)

**F276** Words in s. 41(3) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 8(2)** (with s. 32); S.S.I. 2000/312, **art. 2** 

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F277 Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(4)(b)
 F278 Words in s. 41(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006
        (c. 16), ss. 105(1), 107, Sch. 11 para. 88(2), Sch. 12; S.I. 2006/2541, art. 2
 F279 Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(5)
 F280 S. 41(5): definitions of "management agreement" and "the relevant authority" substituted (1.10.2006)
        by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para.
        88(3); S.I. 2006/2541, art. 2
 F281 S. 41(5A) inserted (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2),
        27(2), Sch. 3 Pt. I para. 31(3)
 F282 Words in s. 41(5A) inserted (1.4.1997) by 1995 c. 25, s. 78, Sch. 10 para. 22(2) (with ss. 7(6), 115,
        Sch. 8 para. 7); S.I. 1996/2560, art. 2
 F283 S. 41(6) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss.
        105(1), 107, Sch. 11 para. 88(4), Sch. 12; S.I. 2006/2541, art. 2
Modifications etc. (not altering text)
 C21 S. 41 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7
Marginal Citations
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# National Parks

# [F28441A Application of sections 42 to 45 in Wales

In relation to land in Wales, sections 42 to 45 (which relate to National Parks) have effect as if references to Natural England were references to the Countryside Council for Wales.]

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Textual Amendments
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M32 1911 c. 49.

**F284** S. 41A inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 89**; S.I. 2006/2541, **art. 2** 

# 42 Notification of agricultural operations on moor and heath in National Parks.

- (1) [F285] A National Park authority] may, if satisfied that it is expedient to do so, by order apply subsection (2) to any land which is comprised in [F286] the relevant Park] and which appears to them to consist of or include moor or heath.
- (2) Subject to subsection (3), no person shall—
  - (a) by ploughing or otherwise convert into agricultural land any land to which this subsection applies and which is moor or heath which has not been agricultural land at any time within the preceding 20 years; or
  - (b) carry out on any such land any other agricultural operation or any forestry operation which (in either case) appears to [F287] the National Park authority] to be likely to affect its character or appearance and is specified in the order applying this subsection to that land.
- (3) Subsection (2) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—

- (a) one of them has, after the coming into force of the order, given the [F288]National Park authority] written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
- (b) one of the conditions specified in subsection (4) is satisfied.
- (4) The said conditions are—
  - (a) that the [F288National Park authority] have given their consent to the carrying out of the operation;
  - (b) where that authority have neither given nor refused their consent, that three months have expired from the giving of the notice; and
  - (c) where that authority have refused their consent, that twelve months have expired from the giving of the notice.
- (5) A person who, without reasonable excuse, contravenes subsection (2) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where the [F288]National Park authority] are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to [F289]Natural England]
- (7) In considering for the purposes of this section whether land has been agricultural land within the preceding 20 years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section or section 14 of the 1968 Act.
- [F290(8) An order under this section shall be made by statutory instrument and the Statutory Instruments Act 1946 shall apply to such an instrument as if the order had been made by a Minister of the Crown.]
  - (9) The said section 14 (which is superseded by this section) shall cease to have effect; but this section shall have effect as if any order under that section in force immediately before the coming into force of this section had been made under this section.

# **Textual Amendments**

- **F285** Words in s. 42(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(2)(a), 107; S.I. 2006/2541, art. 2
- **F286** Words in s. 42(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(2)(b), 107; S.I. 2006/2541, art. 2
- **F287** Words in s. 42(2)(b) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(3), 107; S.I. 2006/2541, art. 2
- **F288** Words in s. 42 substituted (1.4.1996) by 1995 c. 25, s. 78, **Sch. 10 para. 22(3)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1995/2950, **art. 3(1)(2)**
- **F289** Words in s. 42(6) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(4), 107; S.I. 2006/2541, art. 2
- **F290** S. 42(8) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(5), 107; S.I. 2006/2541, art. 2

## **Modifications etc. (not altering text)**

- C22 S. 42(2) applied by The Peak District National Park Authority Order 2002 (S.I. 2002/80), art. 2
- C23 S. 42(2) applied by S.I. 1991/1616, art. 2

# 43 Maps of National Parks showing certain areas of moor or heath.

- (1) Every [F291 local planning authority] whose area comprises the whole or any part of a National Park shall—
  - (a) before the expiration of the period of two years beginning with [F<sup>292</sup>the relevant date], prepare a map of the Park or the part thereof showing any areas [F<sup>293</sup>to which this section applies whose natural beauty] it is, in the opinion of the authority, particularly important to conserve; and
  - (b) [F294 at intervals of not more than five years] review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.
- [F295(1A) In considering under subsection (1) whether any area to which this section applies is one whose natural beauty it is particularly important to conserve, a [F296] local planning authority] shall act in accordance with the guidelines from time to time issued F297 . . . under subsection (1B).
  - (1B) [F298] Natural England shall] issue guidelines for the guidance of county planning authorities in considering as mentioned in subsection (1A), and [F299] Natural England may [from time to time revise any guidelines so issued.
  - (1C) Before issuing or revising any guidelines under subsection (1B) [F300] Natural England] shall consult such bodies as appear to them to represent interests concerned; and before preparing or revising any map under subsection (1) a [F296] local planning authority] shall consult such bodies as appear to the authority to represent interests concerned with matters affecting the Park or part of the Park in question.]
    - (2) The authority shall cause a map prepared or revised in pursuance of subsection (1) to be printed, and shall cause copies thereof to be put on sale to the public at such price as the authority may determine.
  - [F301(3) This section applies to any area of mountain, moor, heath, woodland, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore); and in this section "the relevant date" means the date of issue of the first guidelines under subsection (1B).]

#### **Textual Amendments**

- F291 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(4)
- F292 Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. 3(2)(a)
- F293 Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. 3(2)(b)
- F294 Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. 3(3)
- F295 S. 43(1A)–(1C) inserted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. 3(4)
- F296 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(4)
- **F297** Words in s. 43(1A) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VI**; S.I. 1991/685, **art. 3**
- **F298** Words in s. 43(1B) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 90(2)(a); S.I. 2006/2541, art. 2
- **F299** Words in s. 43(1B) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 90(2)(b); S.I. 2006/2541, art. 2
- **F300** Words in s. 43(1C) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para, 90(3); S.I. 2006/2541, art. 2
- F301 S. 43(3) added by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. 3(5)

# Modifications etc. (not altering text) C24 S. 43 modified (19.9.1995) by 1995 c. 25, ss. 69(3), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

# 44 Grants and loans for purposes of National Parks.

- [F303] (1A) F304. . . . the National Park authority for such a Park may give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of the authority, is conducive to the attainment in the Park in question of any of the purposes mentioned in section 5(1) of the 1949 Act (purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks and of promoting opportunities for the understanding and enjoyment of the special qualities of those Parks by the public).]
  - (2) On making a grant or loan under this section [F305 the authority in question] may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.
  - (3) [F305] The authority in question] shall so exercise their powers under subsection (2) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, insofar as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.
  - [F306(4) For the purposes of this section the Broads Authority shall be treated as a [F307National Park authority and the Broads as a National Park for which it is the local planning authority.]]

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Textual Amendments
F302 S. 44(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115); S.I. 1996/2560, art. 2, Sch.
F303 S. 44(1A) inserted (19.9.1995) by 1995 c. 25, ss. 69(4), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)
F304 Words in s. 44(1A) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115); S.I. 1996/2560, art. 2, Sch.
F305 Words in s. 44(2)(3) substituted (1.4.1996) by 1995 c. 25, s. 78, Sch. 10 para. 22(4)(a)(b) (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1995/2950, art. 3(1)
F306 S. 44(4) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), Sch. 3 Pt. I para. 31(4)
F307 Words in s. 44(4) substituted (1.4.1997) by 1995 c. 25, s. 78, Sch. 10 para. 22(4)(c) (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1996/2560, art. 3
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## 45 Power to vary order designating National Park.

- [F308(1) [F309]Natural England](as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park F310..., and—
  - (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they

- apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to [F309] Natural England]; and
- (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.]

## **Textual Amendments**

- **F308** S. 45(1) renumbered from s. 45 ( *1.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, **Sch. 8 para. 6(4)**; S.I. 1991/685, **art.3**.
- **F309** Words in s. 45(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 91(2)(a); S.I. 2006/2541, art. 2
- **F310** Words in s. 45(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 91(2)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F311** S. 45(2) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 91(3), Sch. 12; S.I. 2006/2541, art. 2

# **Textual Amendments**

**F312** S. 46 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, art. 2, **Sch.** 

# Miscellaneous and supplemental

# 47 [F313 Grants to the Countryside Council for Wales]

- (1) F314.....
- (2) The Secretary of State may, with the approval of the Treasury, make F315. . . [F316] to the Countryside Council for Wales] out of moneys provided by Parliament grants of such amount and subject to such conditions (if any) as he may, with the approval of the Treasury, think fit.
- <sup>x9</sup>(3) Sections 2, 4 and 95 of the 1949 Act and section 3 of the 1968 Act (which are superseded by this section) shall cease to have effect.

#### **Editorial Information**

X9 The text of ss. 15(1), 38(6), 40, 46(1)-(3) and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

# **Textual Amendments**

**F313** S. 47 heading substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 92(4); S.I. 2006/2541, art. 2

- **F314** S. 47(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 92(2), **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F315** Words in s. 47(2) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 92(3), Sch. 12; S.I. 2006/2541, art. 2
- **F316** Words in s. 47(2) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, Sch. 8 para. 6(5); S.I. 1991/685, art.3.

48 ..... F317

## **Textual Amendments**

**F317** S. 48 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** 

# 49 Extension of power to appoint wardens.

- (1) This section applies to any land in a National Park or in the countryside if—
  - (a) the public are allowed access to the land; and
  - (b) there is no power under any of the provisions of the 1949 Act and the 1968 Act for a local authority, a local planning authority [F318], the Countryside Council for Wales.] or [F319] Natural England] to appoint wardens as respects that land.
- (2) Subject to subsections (3) and (4) the power conferred on a local authority by section 92(1) of the 1949 Act (appointment of wardens) shall include a power, exercisable only with the agreement of the owner and of the occupier of any land to which this section applies, to appoint persons to act as wardens as respects that land.
- (3) The only purpose for which wardens may be appointed by virtue of subsection (2) is to advise and assist the public.
- (4) Notwithstanding the provisions of section 41(8) of the 1968 Act ([F319]Natural England][F318] or the Countryside Council for Wales] to be local authority for purposes of section 92 of the 1949 Act), nothing in this section shall be construed as conferring on [F319]Natural England][F318] or the Countryside Council for Wales] any additional power to appoint wardens.

# **Textual Amendments**

F318 Words inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, Sch. 8 para, 6(6); S.I. 1991/685, art.3.

**F319** Words in s. 49(1)(4) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 93; S.I. 2006/2541, art. 2

# Payments under certain agreements offered by authorities. E+W

- (1) This section applies where—
  - (a) [F320]Natural England or the Countryside Council for Wales offer to enter into a nature reserve agreement or an SSSI agreement or an agreement under] section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments [F321]to any person; or]

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- the relevant authority offer to enter into a management agreement providing for the making by them of payments to a person whose application for a farm capital grant has been refused in consequence of an objection by the authority.
- (2) Subject to subsection (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given by the Ministers.
- (3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator F322. . . . to be appointed, in default of agreement, by the Secretary of State; and where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—
  - (a) amend the offer so as to give effect to the arbitrator's F322... determination; or
  - except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.
- (4) In this section—

[F323 "farm capital grant" has the same meaning as in section 32;]

"management agreement" and "the relevant authority" have the same meanings as in section 41.

I<sup>F324</sup> nature reserve agreement" has the same meaning as in Part 3 of the 1949 Act;

"SSSI agreement" has the same meaning as in section 15A of the 1968 Act.]

#### **Extent Information**

E26 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

## **Textual Amendments**

F320 Words in s. 50(1)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 94(2); S.I. 2006/2541, art. 2

F321 Words in s. 50(1)(a) substituted for words and s. 50(1)(a)(i)(ii) (E.W.) (30.1.2001) by 2000 c. 37, ss. **79**, 103(2)

F322 Words in s. 50(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 94(3), Sch. 12; S.I. 2006/2541, art. 2

F323 Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(6)

F324 S. 50(4): definitions inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 94(4); S.I. 2006/2541, art. 2

# **Modifications etc. (not altering text)**

C25 S. 50 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

50	Payments under certain agreements offered by authorities.	S
	F693	

#### **Extent Information**

E55 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

**F693** S. 50 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7** para. 4; S.S.I. 2004/495, art. 2

# 51 Powers of entry. E+W

- (1) Any person authorised in writing by the relevant authority may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—
  - [F325(a) to determine whether the land should be notified under section 28(1);
    - (b) to assess the condition of the flora, fauna, or geological or physiographical features by reason of which land which has been notified under section 28(1) is of special interest;
    - (c) to determine whether or not to offer to enter into [F326] a nature reserve agreement or an SSSI agreement or] an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land;
    - (d) to ascertain whether a condition to which a consent referred to in section 28E(3)(a) was subject has been complied with in relation to the land;
    - (e) to ascertain whether an offence under section 28P or under byelaws made by virtue of section 28R is being, or has been, committed on or in relation to the land;
    - (f) to formulate a management scheme for the land or determine whether a management scheme (or a proposed management scheme) for the land should be modified:
    - (g) to prepare a management notice for the land;
    - (h) to ascertain whether the terms of [F326] a nature reserve agreement or an SSSI agreement or] an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land, or the terms of a management scheme or the requirements of a management notice in relation to the land, have been complied with;
    - (i) to determine whether or not to offer to make a payment under section 28M in relation to the land;
    - (j) to determine any question in relation to the acquisition of the land by agreement or compulsorily;
    - (k) to determine any question in relation to compensation under section 20(3) of the 1949 Act as applied by section 28R of this Act;
  - [ for the purposes of putting up, maintaining or removing notices or signs under section 28S;]
    - (l) to ascertain whether an order should be made in relation to the land under section 34 or if an offence under that section is being, or has been, committed on the land:
    - (m) to ascertain whether an order should be made in relation to the land under section 42 or if an offence under that section is being, or has been, committed on the land;]

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but nothing in this subsection shall authorise any person to enter a dwelling.

- [F328(1A) The power conferred by subsection (1) to enter land for any purpose includes power to enter for the same purpose any land other than that referred to in subsection (1).
  - (1B) More than one person may be authorised for the time being under subsection (1) to enter any land.]
    - (2) In subsection (1) "the relevant authority" means
      - for the purposes of  $[^{F329}$ paragraphs (a) to (ka)] of that subsection,  $[^{F330}$ Natural England or the Countryside Council for Wales];
      - for the purposes of [F331 paragraph (1)] of that subsection, the Secretary of State (b) or the relevant authority within the meaning of section 34;
      - for the purposes of [F331 paragraph (m)] of that subsection, F332. . . the [F333 National Park authority].

# $I^{F334}(2A)$ In subsection (1)—

"nature reserve agreement" has the same meaning as in Part 3 of the 1949

"SSSI agreement" has the same meaning as in section 15A of the 1968 Act.]

- (3) A person shall not demand admission as of right to any land which is occupied unless either-
  - 24 hours notice of the intended entry has been given to the occupier; or
  - (b) the purpose of the entry is to ascertain if an offence under section 28P, 34 or 42 is being, or has been, committed on or (as the case may be) in relation to that land.]
- [F336(3A) A person acting in the exercise of a power conferred by subsection (1) may
  - use a vehicle or a boat to enter the land;
  - take a constable with him if he reasonably believes he is likely to be obstructed;
  - take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - take samples of the land and of anything on it. (d)
  - (3B) If in the exercise of a power conferred by subsection (1) a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.]
    - (4) Any person who intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) shall be liable on summary conviction to a fine not exceeding [f337] level 3 on the standard scale].
  - [F338(5) It is the duty of a relevant authority to compensate any person who has sustained damage as a result of
    - the exercise of a power conferred by subsection (1) by a person authorised to do so by that relevant authority, or
    - the failure of a person so authorised to perform the duty imposed on him by subsection (3B),

except where the damage is attributable to the fault of the person who sustained it; and any dispute as to a person's entitlement to compensation under this subsection or as to

its amount shall be referred to an arbitrator to be appointed, in default of agreement, by the Secretary of State

#### **Extent Information**

**E27** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

- **F325** S. 51(1)(a)-(m) substituted for s. 51(1)(a)-(d) (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(2), 103(2)
- **F326** Words in s. 51(1)(c)(h) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 95(2); S.I. 2006/2541, art. 2
- **F327** S. 51(1)(ka) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 58(2), 107; S.I. 2006/2541, art. 2
- **F328** S. 51(1A)(1B) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(3), 103(2)
- **F329** Words in s. 51(2) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 58(3), 107; S.I. 2006/2541, art. 2
- **F330** Words in s. 51(2)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 95(3); S.I. 2006/2541, art. 2
- **F331** Words in s. 51(2)(a)(b)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(4)(a)(b)(c)
- **F332** Words in s. 51(2)(c) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(6), 105(2), 107, Sch. 12; S.I. 2006/2541, art. 2
- **F333** Words in s. 51(2)(c) substituted (1.4.1996) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 22(5)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1995/2950, **art. 3(1)(2)**
- **F334** S. 51(2A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 95(4)**; S.I. 2006/2541, **art. 2**
- **F335** S. 51(3)(b) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(5), 103(2)
- **F336** S. 51(3A)(3B) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(6), 103(2)
- F337 Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G
- **F338** S. 51(5) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 80(7), 103(2)

# **Modifications etc. (not altering text)**

C26 S. 51 amended (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 11 para. 21

# 51 Powers of entry. S

F694

#### **Extent Information**

E56 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### **Textual Amendments**

F694 S. 51 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2); S.S.I. 2004/495, art. 2

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

# [F33951A Summary prosecutions

- (1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.
- (2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]

#### **Textual Amendments**

**F339** S. 51A inserted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 53, 107, Sch. 6 para. 4; S.I. 2006/1382, art. 2

# 52 Interpretation of Part II.

(1) In this Part, unless the context otherwise requires,—

"agricultural land" does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land;

[F340" estuarial waters" has the meaning given by section 28(9A);]

"the Ministers", in the application of this Part to England, means the Secretary of State and the Minister of Agriculture, Fisheries and Food, and, in the application of this Part to Scotland or Wales, means the Secretary of State.

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[F343"notice" and "notification" mean notice or notification in writing;

"site of special scientific interest" means an area of land which has been notified under section 28(1)(b);]

(2) [F344In the application of this Part to England (except as respects [F345a National Park for which a National Park authority is the local planning authority,] a metropolitan county or Greater London) F346. . . references to a local planning authority shall be construed—

F347(a) .....

(b) F348. . . as references to a county planning authority and a district planning authority;

and in the application of this Part to Scotland references to a local planning authority shall be construed as references to a regional planning authority, a general planning authority and a district planning authority [F349] and, in sections 28 to 28D, shall also be construed in accordance with section 28(10);].

[F350(2A) Where a notification under section 28(1)(b) has been—

- (a) modified under section 28(5)(b),
- (b) varied under section 28A(3), or

- (c) varied with modifications under section 28A(5)(b),
- (d) extended under section 28B(2), or
- (e) extended with modifications by virtue of section 28B(7),
- a reference to such a notification (however expressed) is (unless the context otherwise requires) a reference to the notification as thus altered.
- (2B) References to a notification under section 28(1) or 28(5)(b), or to a local land charge existing by virtue of section 28(9), shall be construed in accordance with section 28C(9).
- (2C) For the purposes of this Part, in relation to land in England and Wales which is common land, "occupier" includes the commoners or any of them; and
  - (a) "common land" means common land as defined in section 22 of the M33 Commons Registration Act 1965; and
  - (b) "commoner" means a person with rights of common as defined in that section.]
  - (3) References in this Part to the conservation of the natural beauty of any land shall be construed as including references to the conservation of its flora, fauna and geological and physiographical features.
  - (4) Section 114 of the 1949 Act shall apply for the construction of this Part.

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#### **Textual Amendments**

- **F340** S. 52(1): definition of "estuarial waters" inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para.** 4: S.I. 2014/3088, art. 2(b)
- F341 S. 52(1): definition of "the Nature Conservancy Councils" repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 96, Sch. 12; S.I. 2006/2541, art. 2
- **F342** Words in s. 52(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 96, **Sch. 12**; S.I. 2006/2541, **art. 2**
- **F343** S. 52(1): definitions of "notice", "notification" and "site of special scientific interest" inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 5(2)
- **F344** Words and s. 52(2)(*a*)(*b*) substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(5)**
- **F345** Words in s. 52(2) inserted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 22(6)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1996/2560, **art. 3**
- **F346** Words in s. 52(2) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(6), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F347 S. 52(2)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115); S.I. 1996/2560, art. 2
- **F348** Words in s. 52(2)(b) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, **art. 2**
- F349 Words in s. 52(2) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 5(3)
- F350 S. 52(2A)-(2C) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 5(4)
- **F351** S. 52(5) repealed (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(2), **Sch. 2** (with art. 6)

## **Modifications etc. (not altering text)**

C27 S. 52(2) excluded (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(2)(b), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

## **Marginal Citations**

M33 1965 c. 64.

## PART III

#### PUBLIC RIGHTS OF WAY

Ascertainment of public rights of way

# Duty to keep definitive map and statement under continuous review.

- (1) In this Part "definitive map and statement", in relation to any area, means, subject to section 57(3) [F352 and 57A(1)],—
  - (a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or
  - (b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or
  - (c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).
- (2) As regards every definitive map and statement, the surveying authority shall—
  - (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
  - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows—
  - (a) the coming into operation of any enactment or instrument, or any other event, whereby—
    - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
    - (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or
    - (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path [F353] or a restricted byway];
  - (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period

- raises a presumption that the way has been dedicated as a public path [F354 or restricted byway];
- (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
  - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being [F355 a right of way such that the land over which the right subsists is a public path [F356, a restricted byway] or, subject to section 54A, a byway open to all traffic];
  - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or
  - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- (4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—
  - (a) the position and width of any public path [F357, restricted byway] or byway open to all traffic which is or is to be shown on the map; and
  - (b) any limitations or conditions affecting the public right of way thereover.
- [F358](4A) Subsection (4B) applies to evidence which, when considered with all other relevant evidence available to the surveying authority, shows as respects a way shown in a definitive map and statement as a restricted byway that the public have, and had immediately before the commencement of section 47 of the Countryside and Rights of Way Act 2000, a right of way for vehicular and all other kinds of traffic over that way.
  - (4B) For the purposes of subsection (3)(c)(ii), such evidence is evidence which, when so considered, shows that the way concerned ought, subject to section 54A, to be shown in the definitive map and statement as a byway open to all traffic.]
    - (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.
- [F359(5A) Evidence to which subsection (4B) applies on the commencement of section 47 of the Countryside and Rights of Way Act 2000 shall for the purposes of subsection (5) and any application made under it be treated as not having been discovered by the surveying authority before the commencement of that section.]
  - (6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

# **Textual Amendments**

**F352** Words in s. 53(1) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(2); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

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F353 Words in s. 53(3)(a)(iii) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(3); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
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- F354 Words in s. 53(3)(b) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 70(1)(a), 107; S.I. 2006/1176, art. 6; S.I. 2006/2992, art. 2
- **F355** Words in s. 53(3)(c)(i) substituted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(4); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
- F356 Words in s. 53(3)(c)(i) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 70(1)(a), 107; S.I. 2006/1176, art. 6; S.I. 2006/2992, art. 2
- **F357** Words in s. 53(4)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(5); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
- **F358** S. 53(4A)(4B) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(6); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
- **F359** S. 53(5A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(7); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

#### **Modifications etc. (not altering text)**

C28 S. 53: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1
S. 53 excluded (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 49(5), 103(3); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

# [F36053A Power to include modifications in other orders.

- (1) This section applies to any order—
  - (a) which is of a description prescribed by regulations made by the Secretary of State,
  - (b) whose coming into operation would, as regards any definitive map and statement, be an event within section 53(3)(a),
  - (c) which is made by the surveying authority, and
  - (d) which does not affect land outside the authority's area.
- (2) The authority may include in the order such provision as it would be required to make under section 53(2)(b) in consequence of the coming into operation of the other provisions of the order.
- (3) An authority which has included any provision in an order by virtue of subsection (2)
  - (a) may at any time before the order comes into operation, and
  - (b) shall, if the order becomes subject to special parliamentary procedure, withdraw the order and substitute for it an order otherwise identical but omitting any provision so included.
- (4) Anything done for the purposes of any enactment in relation to an order withdrawn under subsection (3) shall be treated for those purposes as done in relation to the substituted order.
- (5) No requirement for the confirmation of an order applies to provisions included in the order by virtue of subsection (2), but any power to modify an order includes power to make consequential modifications to any provision so included.
- (6) Provisions included in an order by virtue of subsection (2) shall take effect on the date specified under section 56(3A) as the relevant date.

- (7) Where any enactment provides for questioning the validity of an order on any grounds, the validity of any provision included by virtue of subsection (2) may be questioned in the same way on the grounds—
  - (a) that it is not within the powers of this Part, or
  - (b) that any requirement of this Part or of regulations made under it has not been complied with.
- (8) Subject to subsections (5) to (7), the Secretary of State may by regulations provide that any procedural requirement as to the making or coming into operation of an order to which this section applies shall not apply, or shall apply with modifications prescribed by the regulations, to so much of the order as contains provision included by virtue of subsection (2).
- (9) Regulations 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.]

#### **Textual Amendments**

**F360** S. 53A inserted (21.11.2005 for W. and 18.2.2008 for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 2; S.I. 2005/1314, art. 4; S.I. 2008/308, art. 2

# [F361 53B Register of applications under section 53.

- (1) Every surveying authority shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to applications under section 53(5).
- (2) The register shall contain such information as may be prescribed with respect to the manner in which such applications have been dealt with.
- (3) Regulations may make provision for the register to be kept in two or more parts, each part containing such information relating to applications under section 53(5) as may be prescribed.
- (4) Regulations may make provision—
  - (a) for a specified part of the register to contain copies of applications and of the maps submitted with them, and
  - (b) for the entry relating to any application, and everything relating to it, to be removed from any part of the register when—
    - (i) the application (including any appeal to the Secretary of State) has been finally disposed of, and
    - (ii) if an order is made, a decision has been made to confirm or not to confirm the order,

(without prejudice to the inclusion of any different entry relating to it in another part of the register).

- (5) Every register kept under this section shall be available for inspection free of charge at all reasonable hours.
- (6) In this section—

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State by statutory instrument;

and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

## **Textual Amendments**

**F361** S. 53B inserted (27.9.2005 for E. and 21.11.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 2; S.I. 2005/2459, art. 2(1); S.I. 2005/1314, art. 4

# Duty to reclassify roads used as public paths.

F362

## **Textual Amendments**

**F362** S. 54 repealed (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 47(1), 102, 103(3), Sch. 16 Pt. II; S.I. 2006/1172, art. 2 (with art. 3); S.I. 2006/1279, art. 2

## **PROSPECTIVE**

# [F36354A BOATs not to be added to definitive maps.

- (1) No order under this Part shall, after the cut-off date, modify a definitive map and statement so as to show as a byway open to all traffic any way not shown in the map and statement as a highway of any description.
- (2) In this section "the cut-off date" means, subject to regulations under subsection (3), 1st January 2026.
- (3) The Secretary of State may make regulations—
  - (a) substituting as the cut-off date a date later than the date specified in subsection (2) or for the time being substituted under this paragraph;
  - (b) containing such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the operation of subsection (1), including in particular its operation in relation to—
    - (i) an order under section 53(2) for which on the cut-off date an application is pending,
    - (ii) an order under this Part which on that date has been made but not confirmed,
    - (iii) an order under section 55 made after that date, or
    - (iv) an order under this Part relating to any way as respects which such an order, or any provision of such an order, has after that date been to any extent quashed.
- (4) Regulations under subsection (3)(a)—
  - (a) may specify different dates for different areas; but
  - (b) may not specify a date later than 1st January 2031, except as respects an area within subsection (5).

- (5) An area is within this subsection if it is in—
  - (a) the Isles of Scilly, or
  - (b) an area which, at any time before the repeal by section 73 of this Act of sections 27 to 34 of the 1949 Act—
    - (i) was excluded from the operation of those sections by virtue of any provision of the 1949 Act, or
    - (ii) would have been so excluded but for a resolution having effect under section 35(2) of that Act.
- (6) Where by virtue of regulations under subsection (3) there are different cut-off dates for areas into which different parts of any way extend, the cut-off date in relation to that way is the later or latest of those dates.
- (7) Where it appears to the Secretary of State that any provision of this Part can by virtue of subsection (1) have no further application he may by order make such amendments or repeals in this Part as appear to him to be, in consequence, necessary or expedient.
- (8) An order or regulations 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.]

#### **Textual Amendments**

F363 S. 54A inserted (prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 4

# No further surveys or reviews under the 1949 Act.

- (1) No survey under sections 27 to 32 of the 1949 Act, or review under section 33 of that Act, shall be begun after the commencement date; and where on that date a surveying authority have not completed such a survey or review begun earlier, the Secretary of State may, after consultation with the authority, direct the authority—
  - (a) to complete the survey or review; or
  - (b) to abandon the survey or review to such extent as may be specified in the direction.
- (2) Where such a survey or review so begun is abandoned, the Secretary of State shall give such notice of the abandonment as appears to him requisite.
- (3) Where, in relation to any area, no such survey has been so begun or such a survey so begun is abandoned, the surveying authority shall prepare for that area a map and statement such that, when they have been modified in accordance with the provisions of this Part, they will serve as the definitive map and statement for that area.
- (4) Where such a survey so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement prepared under subsection (3) so as—
  - (a) to give effect to any determination or decision of the authority under section 29(3) or (4) of the 1949 Act in respect of which either there is no right of appeal or no notice of appeal has been duly served;

- (b) to give effect to any decision of the Secretary of State under section 29(6) of that Act; and
- (c) to show any particulars shown in the draft map and statement with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections had been withdrawn.
- (5) Where such a review so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement under review so as—
  - (a) to give effect to any decision of the Secretary of State under paragraph 4(4) of Part II of Schedule 3 to the 1968 Act; and
  - (b) to show any particulars shown in the draft map and statement but not in the map and statement under review, and to omit any particulars shown in the map and statement under review but not in the draft map and statement, being (in either case) particulars with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections have been withdrawn.
- (6) Orders under subsection (4) or (5) shall take effect on their being made.

# [F364(7) Every way which—

- (a) in pursuance of an order under subsection (5) is shown in a definitive map and statement as a byway open to all traffic, a bridleway or a footpath, and
- (b) before the making of the order, was shown in the map and statement under review as a road used as a public path,

shall be a highway maintainable at the public expense.

(8) Subsection (7) does not oblige a highway authority to provide, on a way shown in a definitive map and statement as a byway open to all traffic, a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.]

# **Textual Amendments**

**F364** S. 55(7)(8) inserted (27.9.2005 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 5; S.I. 2005/2459, art. 2(1); S.I. 2006/1279, art. 2

## **Effect of definitive map and statement.**

- (1) A definitive map and statement shall be conclusive evidence as to the particulars contained therein to the following extent, namely—
  - (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than that right;
  - (b) where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights;

- (c) where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way for vehicular and all other kinds of traffic;
- (d) where the map shows a [F365 restricted byway], the map shall [F366], subject to subsection (2A),] be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse [F367 together with a right of way for vehicles other than mechanically propelled vehicles], so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights; and
- (e) where by virtue of the foregoing paragraphs the map is conclusive evidence, as at any date, as to a highway shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at that date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.
- [F368(1A) In subsection (1)(d) "mechanically propelled vehicle" does not include an electrically assisted pedal cycle of a class prescribed for the purposes of section 189(1)(c) of the M34Road Traffic Act 1988.]
  - (2) For the purposes of this section "the relevant date"—
    - (a) in relation to any way which is shown on the map otherwise than in pursuance of an order under the foregoing provisions of this Part [F369] or an order to which section 53A applies which includes provision made by virtue of subsection (2) of that section], means [F370], subject to subsection (2A),] the date specified in the statement as the relevant date for the purposes of the map;
    - (b) in relation to any way which is shown on the map in pursuance of such an order, means the date which, in accordance with subsection (3) [F371 or (3A)], is specified in the order as the relevant date for the purposes of the order.
- [F372(2A) In the case of a map prepared before the date of the coming into force of section 47 of the Countryside and Rights of Way Act 2000—
  - (a) subsection (1)(d) and (e) have effect subject to the operation of any enactment or instrument, and to any other event, whereby a way shown on the map as a restricted byway has, on or before that date—
    - (i) been authorised to be stopped up, diverted or widened, or
    - (ii) become a public path, and
  - (b) subsection (2)(a) has effect in relation to any way so shown with the substitution of that date for the date mentioned there.]
  - (3) Every order under the foregoing provisions of this Part shall specify, as the relevant date for the purposes of the order, such date, not being earlier than six months before the making of the order, as the authority may determine.
- [F373(3A) Every order to which section 53A applies which includes provision made by virtue of subsection (2) of that section shall specify, as the relevant date for the purposes of the order, such date as the authority may in accordance with regulations made by the Secretary of State determine.]

- (4) A document purporting to be certified on behalf of the surveying authority to be a copy of or of any part of a definitive map or statement as modified in accordance with the provisions of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.
- [F374(4A) Regulations 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.]

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(5) F375.....
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Textual Amendments
 F365 Words in s. 56(1)(d) substituted (2. 5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3),
        Sch. 5 Pt. I para. 6(2)(a); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F366 Words in s. 56(1)(d) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch.
        5 Pt. I para. 6(2)(b); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F367 Words in s. 56(1)(d) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch.
        5 Pt. I para. 6(2)(c); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F368 S. 56(1A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I
        para. 6(3); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F369 Words in s. 56(2)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch.
        5 Pt. I para. 6(4)(a)(i); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F370 Words in s. 56(2)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch.
        5 Pt. I para. 6(4)(a)(ii); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F371 Words in s. 56(2)(b) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch.
        5 Pt. I para. 6(4)(b); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F372 S. 56(2A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I
        para. 6(5); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F373 S. 56(3A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I
        para. 6(6); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F374 S. 56(4A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I
        para. 6(7); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
 F375 S. 56(5) repealed (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 102, 103(3), Sch. 5 Pt. I
        para. 6(8), Sch. 16 Pt. II; S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
Marginal Citations
 M34 1988 c. 52.
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# 57 Supplementary provisions as to definitive maps and statements.

- (1) An order under the foregoing provisions of this Part shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, [F376] on such scale as may be so prescribed,] showing the modifications to which the order relates.
- (2) Regulations made by the Secretary of State may prescribe the scale on which maps are to be prepared under [F377 subsection (1) or any other provision of this Part], and the method of showing in definitive maps and statements anything which is required to be so shown.
- (3) Where, in the case of a definitive map and statement for any area which have been modified in accordance with the foregoing provisions of this Part, it appears to the

surveying authority expedient to do so, they may prepare a copy of that map and statement as so modified; and where they do so, the map and statement so prepared, and not the map and statement so modified, shall be regarded for the purposes of the foregoing provisions of this Part [F378], and for the purposes of section 57A(1),] as the definitive map and statement for that area.

- [F379](3A) Where as respects any definitive map and statement the requirements of section 53(2), and of section 55 so far as it applies, have been complied with, the map and statement are to be regarded for the purposes of subsection (3) as having been modified in accordance with the foregoing provisions of this Part whether or not, as respects the map and statement, the requirements of section 54 have been complied with.]
  - (4) The statement prepared under subsection (3) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
  - (5) As regards every definitive map and statement, the surveying authority shall keep—
    - (a) a copy of the map and statement; and
    - (b) copies of all orders under this Part modifying the map and statement, available for inspection free of charge at all reasonable hours at one or more places in

each district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority, a place in each parish so comprised; and the authority shall be deemed to comply with the requirement to keep such copies available for inspection in a district or parish if they keep available for inspection there a copy of so much of the map and statement and copies of so many of the orders as relate to the district or parish.

- [F380(5A) Subsection (5) shall apply in relation to land in Wales as if "in each district comprised" were omitted.]
  - (6) Notwithstanding anything in subsection (5), an authority shall not be required to keep available for inspection more than one copy of—
    - (a) any definitive map and statement; or
    - (b) each order under this Part modifying the map and statement,

if, as respects the area to which that map and statement relate, a subsequent map and statement have been prepared under subsection (3); and the said single copies may be kept in such place in the area of the authority as they may determine.

- [F381 (6A) In subsection (1), the reference to an order under the foregoing provisions of this Part includes a reference to so much of an order to which section 53A applies as contains provision made by virtue of subsection (2) of that section; and subsections (5) and (6) apply to—
  - (a) orders to which section 53A applies modifying the map and statement, and
  - (b) such documents relating to them as may be prescribed by regulations made by the Secretary of State,

as those subsections apply to orders under this Part modifying the map and statement.

- (6B) Regulations under paragraph (b) of subsection (6A) may require any document to be prepared by a surveying authority for the purposes of that paragraph, and any such document shall be in such form as may be prescribed by the regulations.
- (6C) Regulations made by the Secretary of State may require any surveying authority—

- (a) to keep such other documents as may be prescribed by the regulations available for inspection at such times and places and in such manner as may be so prescribed, or
- (b) to provide to any other surveying authority any document so prescribed which that authority is, by regulations under paragraph (a), required to keep available for inspection.]
- (7) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the provisions of this Part including, in particular, section 53(5) and subsection (5).
- (8) Regulations 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.

#### **Textual Amendments**

- **F376** Words in s. 57(1) repealed (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 102, 103(3), Sch. 5 Pt. I para. 7(2), Sch. 16 Pt. II; S.I. 2006/1172, art. 2
- **F377** Words in s. 57(2) substituted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(3); S.I. 2006/1172, art. 2
- **F378** Words in s. 57(3) inserted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(4); S.I. 2006/1172, art. 2
- **F379** S. 57(3A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(5); S.I. 2006/1172, art. 2
- **F380** S. 57(5A) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(7)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- **F381** S. 57(6A)(6B)(6C) inserted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(6); S.I. 2006/1172, art. 2

# [F38257A Consolidation of definitive maps and statements.

- (1) Where—
  - (a) different definitive maps and statements relate to different parts of a surveying authority's area,
  - (b) as respects so much of each definitive map and statement as relates to that area the requirements of section 53(2), and of section 55 so far as it applies, have been complied with, and
  - (c) there is no part of that area to which no definitive map and statement relate, the authority may, if it appears to them expedient to do so, prepare a map and statement comprising copies of so much of each definitive map and statement as relates to the authority's area; and where they do so the map and statement so prepared and not, so far as copied, the earlier maps and statements shall be regarded for the purposes of sections 53 to 56 and 57(2) and (3) as the definitive map and statement for the area to which they relate.
- (2) The power conferred by subsection (1) is not exercisable by a surveying authority if the definitive map and statement relating to any part of the authority's area is a map and statement in respect of which a review under section 33 of the 1949 Act was begun before the commencement date but has been neither abandoned in pursuance of a direction under section 55(1) nor completed.

- (3) References in subsection (1) to a definitive map and statement are, in the case of a map and statement modified in accordance with any of the foregoing provisions of this Part, references to the map and statement as modified.
- (4) The statement prepared under subsection (1) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the preparation by them of any map and statement under subsection (1).]

#### **Textual Amendments**

**F382** S. 57A inserted (13.2.2004 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 8; S.I. 2004/292, art. 2; S.I. 2005/1314, art. 2

# 58 Application of ss. 53 to 57 to inner London.

- (1) Subject to subsection (2), the foregoing provisions of this Part shall not apply to any area to which this subsection applies; and this subsection applies to any area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (2) A London borough council may by resolution adopt the said foregoing provisions as respects any part of their area specified in the resolution, being a part to which subsection (1) applies, and those provisions shall thereupon apply accordingly.
- (3) Where by virtue of a resolution under subsection (2), the said foregoing provisions apply to any area, those provisions shall have effect in relation thereto as if for references to the commencement date there were substituted references to the date on which the resolution comes into operation.

#### Miscellaneous and supplemental

# 59 Prohibition on keeping bulls on land crossed by public rights of way.

- (1) If, in a case not falling within subsection (2), the occupier of a field or enclosure crossed by a right of way to which this Part applies [F383] or a restricted byway] permits a bull to be at large in the field or enclosure, he shall be liable on summary conviction to a fine not exceeding [F384] level 3 on the standard scale].
- (2) Subsection (1) shall not apply to any bull which—
  - (a) does not exceed the age of ten months; or
  - (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (3) Nothing in any byelaws, whenever made, shall make unlawful any act which is, or but for subsection (2) would be, made unlawful by subsection (1).

- (4) In this section "recognised dairy breed" means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.
- (5) The Secretary of State may by order add any breed to, or remove any breed from, subsection (4); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

**F383** Words in s. 59(1) inserted (3.7.2006 for E. and 12.7.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177, reg. 1(3)(5), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

F384 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

#### **Modifications etc. (not altering text)**

C29 S. 59 applied (3.7.2006 for E. and 12.7.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(3)(5), 2(1), Sch. Pt. 1; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

F38560															

#### **Textual Amendments**

F385 S. 60 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, Sch. 14

# [F386X10 61Ploughing of public rights of way.

- (1) Section 134 of the M35 Highways Act 1980 (ploughing of footpath or bridleway) shall have effect subject to the amendments provided for by subsections (2) to (9).
- (2) Subsection (3) (7 days' notice of intention to plough) shall be omitted.
- (3) In subsection (4) (duty to resore surface of footpath or bridleway), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
  - "(a) not later than 2 weeks from the time when the occupier began to plough the footpath or bridleway, or
  - (b) if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter,".
- (4) In subsection (5) (failure to comply with subsection (3) or (4)) the words "(3) or" shall be omitted, for paragraphs (a) and (b) there shall be substituted the words "to a fine not exceeding £200" and for the words "subsection (4)", in the second place where they occur, there shall be substituted the words "that subsection".
- (5) After that subsection there shall be inserted the following subsection—
  - "(5A) A person who ploughs any footpath, bridleway or other highway otherwise than in the exercise of a right to plough it shall be guilty of an offence and liable to a fine not exceeding £200."

- (6) In subsection (6) (enforcement of subsections (3) to (5)) for the words "subsections (3) to (5) above as respects any footpath or bridleway" there shall be substituted the words "subsections (4) to (5A) above as respects any footpath, bridleway or other highway".
- (7) In subsection (7) (proceedings by parish or community councils) after the words "subsection (4)" there shall be inserted the words "or (5A)".
- (8) In subsection (8) (power of competent authority to restore surface of footpath or bridleway) for the words "footpath or bridleway" there shall be substituted the words "footpath, bridleway or other highway".
- (9) In subsection (10) (competent authorities for the purposes of subsections (8) and (9)) for the words "footpath or bridleway", in both places where they occur, there shall be substituted the words "footpath, bridleway or other highway".
- (10) In section 135(1) of the said Act of 1980 (temporary diversion of footpath or bridleway ploughed up under section 134) the words "6 or" and "6 weeks or" shall be omitted.]

#### **Editorial Information**

**X10** The text of s. 61 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Textual Amendments**

F386 S. 61 repealed (E.W.) by Rights of Way Act 1990 (c. 24, SIF 59), s. 6(4)

#### **Marginal Citations**

M35 1980 c. 66.

# 62 Appointment of wardens for public rights of way.

A local authority may appoint such number of persons as appears to the authority to be necessary or expedient to act as wardens as respects a footpath, bridleway [F387], restricted byway] or byway open to all traffic which is both in the countryside and in the area of the authority, and the purpose for which the wardens may be so appointed is to advise and assist the public in connection with the use of the path or way.

# **Textual Amendments**

**F387** Words in s. 62 inserted (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

#### **Modifications etc. (not altering text)**

C30 S. 62: functions made exercisable concurrently (22.7.2004) by virtue of The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), art. 25(1)(2)(xxx), Sch. (with art. 35)

S. 62: functions made exercisable concurrently (22.7.2004) by virtue of The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), art. 25(1)(2)(xxx), Sch. (with art. 35)

C31 S. 62 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(1), Sch. Pt. I; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

## 63 Orders creating, extinguishing or diverting footpaths and bridleways.

The enactments mentioned in Schedule 16 (which relate to the making and confirmation of certain orders creating, extinguishing or diverting footpaths and bridleways) shall have effect subject to the amendments provided for in that Schedule.

# **Y1164** Publication of dedication of footpaths and bridleways.

At the end of section 25 of the M36 Highways Act 1980 (creation of footpath or bridleway by agreement) there shall be inserted the following subsection—

"(6) As soon as may be after the dedication of a footpath or bridleway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated."

#### **Editorial Information**

X11 The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M36** 1980 c. 66.

# X1265 Signposting of byways open to all traffic.

- (1) In section 27 of the 1968 Act (signposting of footpaths and bridleways) for the words "or bridleway", wherever they occur, there shall be substituted the words "bridleway or byway"; and for the words "and bridleways" in subsection (6) of that section there shall be substituted the words "bridleways and byways".
- (2) After subsection (7) of that section there shall be inserted the following subsection—
  - "(8) In this section "byway" means a byway open to all traffic, that is to say, a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used."

#### **Editorial Information**

X12 The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

# 66 Interpretation of Part III.

(1) In this Part—

"bridleway" means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

"byway open to all traffic" means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used;

"definitive map and statement" has the meaning given by section 53(1);

"footpath" means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road;

"horse" includes a pony, ass and mule, and "horseback" shall be construed accordingly;

"public path" means a highway being either a footpath or a bridleway;

[F388" restricted byway" has the same meaning as in Part II of the Countryside and Rights of Way Act 2000;]

"right of way to which this Part applies" means a right of way such that the land over which the right subsists is a public path or a byway open to all traffic; [F389 "surveying authority", in relation to any area, means the county council, [F390 county borough council,] metropolitan district council, or

(2) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in subsection (1) by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

London borough council whose area includes that area.]

(3) The provisions of section 30(1) of the 1968 Act (riding of pedal cycles on bridleways) shall not affect the definition of bridleway in subsection (1) and any rights exercisable by virtue of those provisions shall be disregarded for the purposes of this Part.

# **Textual Amendments**

**F388** S. 66(1): definition of "restricted byway" inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 9; S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

F389 Definition substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(6)

**F390** Words in s. 66(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(8)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2** 

## PART IV

#### MISCELLANEOUS AND GENERAL

# [F39166A Application of Part 1 to Crown

(1) Subject to subsections (2) to (5), Part 1 and regulations and orders made under it bind the Crown.

- (2) No contravention by the Crown of any provision of Part 1 makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), Part 1 applies to persons in the public service of the Crown as it applies to other persons.
- (4) But the powers conferred by sections 18A to 19XA are not exercisable in relation to premises occupied by the Crown.
- (5) Nothing in this Part affects Her Majesty in her private capacity.
- (6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.]

#### **Textual Amendments**

**F391** S. 66A inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 54(1), 107; S.I. 2006/2541, art. 2

# 67 [F392 Application of Parts 2 and 3 to Crown land]

- (1) Subject to the following provisions of this section, Part II, except section 51, and Part III shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in the right of the Crown or the Duchy of Lancaster or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for Her Majesty for the purposes of a Government department.
- [F393(1A)] An interest in Crown land, other than one held by or on behalf of the Crown, may be acquired under section 28N, but only with the consent of the appropriate authority.
  - (1B) Byelaws made by virtue of section 28R may apply to Crown land if the appropriate authority consents.]
    - (2) No order shall be made under section <sup>F394</sup>...34 [F395, 36] or 42 in relation to Crown land unless the appropriate authority has consented to the making of that order.
    - (3) An agreement under section 39 as respects any interest in Crown land, other than an interest held by or on behalf of the Crown, shall not have effect unless approved by the appropriate authority.
    - (4) Section 101(11) of the 1949 Act (Crown land) shall apply for the construction of references in this section to the appropriate authority.

## **Textual Amendments**

**F392** S. 67 heading substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 54(2), 107; S.I. 2006/2541, art. 2

**F393** S. 67(1A)(1B) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 6** 

F394 Word in s. 67(2) repealed (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. III

**F395** Word in s. 67(2) repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 321, 324(2)(b)(i)(4), **Sch. 22 Pt. 3** (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(c); and same word repealed (S.) (1.7.2010) by

Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(c)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

#### **Modifications etc. (not altering text)**

C32 S. 67 amended (E.W.) (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 49(6), 103(3); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

# **Application to the Isles of Scilly.**

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order made by statutory instrument provide for the application of the provisions of Part II or III to the Isles of Scilly as if those Isles were a separate county; any any such order may provide for the application of those provisions to those Isles subject to such modifications as may be specified in the order.

# 69 Offences by bodies corporate etc.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### 70 Financial provisions.

- (1) There shall be defrayed out of money provided by Parliament—
  - (a) any administrative expenses incurred by any Minister of the Crown under this Act; and
  - (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by a Minister of the Crown under this Act shall be paid into the Consolidated Fund.

# [F39670A Service of notices.

- (1) Subject to subsection (2), [F<sup>397</sup>section 329 of the M<sup>37</sup>Town and Country Planning Act 1990]] and [F<sup>398</sup>section 271 of the Town and Country Planning (Scotland) Act 1997] (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act.
- (2) [F399 Subsections (2) and (3) of the said section 329] shall not apply to a notice required to be served under paragraph 2 of Schedule 14.
- (3) This section shall not affect the operation of paragraph 2(4) of Schedule 11 or paragraph 3(4) of Schedule 15.

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Textual Amendments
F396 S. 70A inserted by Wildlife and Countryside (Services of Notices) Act 1985 (c. 59, SIF 4:5), s. 1(1)
F397 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2
para. 54(2)(a)
F398 Words in s. 70A(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 34(2)
F399 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2
para. 54(2)(b)

Modifications etc. (not altering text)
C33 S. 70A applied (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(2), 103(2), Sch. 11 para. 22

Marginal Citations
M37 1990 c. 8 (123:1).
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# [F40070B Effect of failure to serve certain notices

- (1) This section applies where the relevant conservation body—
  - (a) has (whether before or after the commencement of this section) taken all reasonable steps to ensure that, under any provision listed in subsection (2), notice is served on every owner and occupier of any land to which the notice relates, but
  - (b) has failed to do so.
- (2) The provisions are—
  - (a) section 28(1) (notification of SSSI):
  - (b) section 28(5) (confirmation or withdrawal of notification of SSSI);
  - (c) section 28A(3) (notice varying notification under section 28);
  - (d) section 28A(5) (notice confirming or withdrawing variation of notification);
  - (e) section 28B(2) (notification of additional land to be included in SSSI);
  - (f) section 28B(7) (confirmation or withdrawal of notification);
  - (g) section 28C(2) (notification of enlargement of SSSI);
  - (h) section 28C(3) (confirmation or withdrawal of notification of enlargement);
  - (i) section 28D(2) (denotification);
  - (i) section 28D(5) (withdrawal or confirmation of denotification);
  - (k) section 28J(3) (notice of proposed management scheme);
  - (1) section 28J(8) (withdrawal or confirmation of management scheme).
- (3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.
- (4) For the purposes of sections 28 to 28Q, the time when the notice is to be treated as having been served is the time when the relevant conservation body took the last of the steps referred to in subsection (1)(a).
- (5) If the relevant conservation body becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.
- (6) Nothing in subsection (3) or (4) renders the owner or occupier liable—
  - (a) in relation to anything done or omitted to be done before the commencement of this section, or

- (b) under section 28P(1) or 28Q(4) in relation to anything done or omitted to be done before the copy of the notice is served under subsection (5).
- (7) "The relevant conservation body" means—
  - (a) in relation to land in an area in England—
    - (i) subject to sub-paragraph (ii), Natural England;
    - (ii) in relation to any time before the commencement of section 27AA, English Nature;
  - (b) in relation to land in an area in Wales, the Countryside Council for Wales.]

#### **Textual Amendments**

**F400** S. 70B inserted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 57, 107; S.I. 2006/1382, art. 2

# 71 General interpretation.

 $[^{F401}(1)]$  In this Act—

"the M381949 Act" means the National Parks and Access to the Countryside Act 1949;

"the M39 1968 Act" means the Countryside Act 1968;

[F402 "the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988.]

"the commencement date", in relation to any provision of this Act and any area, means the date of the coming into force of that provision in that area;

"London borough council" includes the Common Council of the City of London;

"modifications" includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

[F404(2) For the avoidance of doubt it is hereby declared that in this Act "plants" include fungi and algae.]

# **Textual Amendments**

**F401** S. 71 renumbered (E.W.) (1.10.2006) as s. 71(1) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 97(2)(4); S.I. 2006/2541, art. 2

**F402** Definition inserted (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), Sch. 3 Pt. I para. 31(5)

**F403** S. 71: definition of "statutory maximum" repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2.

**F404** S. 72(2) inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105, 107, **Sch. 11 para. 97(3)(4)**; S.I. 2006/2541, **art. 2** 

# **Marginal Citations**

M38 1949 c. 97.

**M39** 1968 c. 41.

#### 72 Minor amendments.

F405	(1)	١.																

- X13(2) In section 20(2) of the M40 Hill Farming Act 1946 (penalty for contravening regulations with respect to the burning of heather and grass) as originally enacted for the words from "five pounds" onwards there shall be substituted the words "£200".
- X13(3) In sections 27 of that Act (penalty for contravening the provisions of that Act relating to muirburn) for the words from "five pounds" onwards there shall be substituted the words "£200".
- X13(4) In section 39 of the M41 Agriculture (Scotland) Act 1948 for the words "the First Schedule to the Protection of Birds Act 1954" there shall be substituted the words "Schedule I to the Wildlife and Countryside Act 1981".
- X13(5) In section 11(1) of the 1949 Act (general powers of local planning authorities in relation to National Parks) after the word "accomplishment" there shall be inserted the words "of any".
- X13(6) In section 74(4) of the M42 Public Health Act 1961 (power to reduce numbers of pigeons and other birds in built-up areas), for the words "the Protection of Birds Act 1954" there shall be substituted the words "Part I of the Wildlife and Countryside Act 1981".
- X13(7) In section 2(8) of the 1968 Act (publicity and information services) for the words from "encouraging" onwards there shall be substituted the words "informing persons resorting to the countryside of their rights and obligations".
- X13(8) In section 15(1) of that Act (areas of special scientific interest) the words "which is not for the time being managed as a nature reserve but" shall be omitted.
- X13(9) In section 37 of that Act (protection for interests in the countryside) for the words "and the Act of 1949" there shall be substituted the words "the Act of 1949 and the Wildlife and Countryside Act 1981".

- X13(11) In section 31(10) of the M43 Highways Act 1980 (dedication of way as highway presumed after public use for 20 years), for the words from "subsection (4)" to "that section" there shall be substituted the words "section 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement" and the words "or of that subsection" onwards shall be omitted.
  - (12) Section 80 of that Act (power of highway authority to fence highways) shall have effect in relation to any area in the countryside of which walls of a particular construction are a feature, as if references to fences included references to walls of that construction; and in exercising their powers under that section in relation to any such area, a highway authority shall have regard to the desirability of exercising the powers conferred by the foregoing provisions of this subsection.
- x13(13) In section 136(4) of that Act (time when hedges may not be required to be cut or pruned) immediately before the words "between the last day of September and the first day of April" there shall be inserted the word "except".
- X13(14) In section 4(5) of the M44Zoo Licensing Act 1981 (grant or refusal of licence) the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild

Creatures and Wild Plants Act 1975 shall be omitted and there shall be added at the end the following entry—

"Part I of the Wildlife and Countryside Act 1981".

#### **Editorial Information**

X13 The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Textual Amendments**

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F405 S. 72(1) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. VII
F406 S. 72(10) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115); S.I. 1996/2560, art. 2
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#### **Marginal Citations**

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M40 1946 c. 73.
M41 1948 c. 45.
M42 1961 c. 64.
M43 1980 c. 66.
M44 1981 c. 37.
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# 73 Repeals and savings.

- X14(1) The enactments mentioned in Schedule 17 are hereby repealed to the extent specified in the third column of that Schedule.
  - (2) Nothing in the repeals made by this section shall affect the operation of sections 27 to 32 of the 1949 Act in relation to any survey begun before the commencement date.
  - (3) Nothing in the repeals made by this section shall affect the operation of sections 33 and 34 of the 1949 Act and Parts II, III, and IV of Schedule 3 to the 1968 Act in relation to any review begun before the commencement date.

F407	(4)	١.																

#### **Editorial Information**

X14 The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

# **Textual Amendments**

**F407** S. 73(4) repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3), Sch.

#### 74 Short title commencement and extent.

- (1) This Act may be cited as the Wildlife and Countryside Act 1981.
- (2) The following provisions of this Act, namely— Part II, except sections 29 to 32, 41 and 46 to 48 and Schedule 13;

sections 59 to 62 and 65 and 66; and

Part IV, except section 72(4), (6) and (14) and section 73(1) so far as relating to Part II of Schedule 17,

shall come into force on the expiration of the period of one month beginning with the passing of this Act.

- (3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed under this subsection for different provisions, different purposes or different areas.
- (4) An order under subsection (3) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (5) The following provisions of this Act, namely—sections 39, 40 and 42 to 49 and Schedule 13; and Part III, do not extend to Scotland.

# [F408(5A) [F409 Sections 29 and 30 extend to Scotland only.]]

(6) This Act, except section 15(1) and Schedule 10 and, so far as regards any enactment mentioned in Schedule 17 that so extends, section 73 and that Schedule, does not extend to Northern Ireland.

#### **Textual Amendments**

F408 S. 74(5A) inserted (E.W.S.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), Sch. 10 Pt. I para. 2
F409 S. 74(5A) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

# **Modifications etc. (not altering text)**

C34 Power of appointment conferred by s. 74(3) fully exercised: S.I. 1982/3237, 990, 1136, 1217, 1983/20, 87

# SCHEDULES

# [F410SCHEDULE ZA1

# BIRDS WHICH RE-USE THEIR NESTS

#### **Textual Amendments**

**F410** Sch. ZA1 inserted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 47, 107; S.I. 2006/1382, art. 2

Common nameScientific nameEagle, GoldenAquila chrysaetosEagle, White-tailedHaliaetus albicillaOspreyPandion haliaetus

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

# [F411SCHEDULE A1

# PROTECTED NESTS AND NEST SITES: BIRDS

#### **Textual Amendments**

**F411** Sch. A1 inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 24**; S.S.I. 2004/495, **art. 2** 

Common name Scientific name
Eagle, White-tailed Haliaetus albicilla]

Godwit, Black-tailed

Grebe, Black-necked

Goshawk

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

# SCHEDULE 1

Sections 1, 2, 4, 6, 19 and 22.

# BIRDS WHICH ARE PROTECTED BY SPECIAL PENALTIES

# PART I

# AT ALL TIMES

	AT ALL TIMES	
Common name	Scientific name	
Avocet	Recurvirostra avosetta	
Bee-eater	Merops apiaster	
Bittern	Botaurus stellaris	
Bittern, Little	Ixobrychus minutus	
Bluethroat	Luscinia svecica	
Brambling	Fringilla montifringilla	
Bunting, Cirl	Emberiza cirlus	
Bunting, Lapland	Calcarius lapponicus	
Bunting, Snow	Plectrophenax nivalis	
Buzzard, Honey	Pernis apivorus	
[F412Capercaillie]	[F412 Tetracurogallus]	
Chough	Pyrrhocorax pyrrhocorax	
Corncrake	Crex crex	
Crake, Spotted	Porzana porzana	
Crossbills (all species)	Loxia	
Curlew, Stone	Burhinus oedicnemus	
Divers (all species)	Gavia	
Dotterel	Charadrius morinellus	
Duck, Long-tailed	Clangula hyemalis	
Eagle, Golden	Aquila chrysaetos	
Eagle, White-tailed	Haliaetus albicilla	
Falcon, Gyr	Falco rusticolus	
Fieldfare	Turdus pilaris	
Firecrest	Regulus ignicapillus	
Garganey	Anas querquedula	

Limosa limosa

Accipiter gentilis

Podiceps nigricollis

Grebe, Slavonian Podiceps auritus
Greenshank Tringa nebularia
Gull, Little Larus minutus

Gull, Mediterranean Larus melanocephalus

Harriers (all species) Circus

Heron, Purple Ardea purpurea Falco subbuteo Hobby Hoopoe Upupa epops Kingfisher Alcedo atthis Kite, Red Milvus milvus Merlin Falco columbarius Oriolus oriolus Oriole, Golden Pandion haliaetus Osprey

Owl, Barn Tyto alba

Owl, Snowy Nyctea scandiaca
Peregrine Falco peregrinus

Petrel, Leach's Oceanodroma leucorhoa

Phalarope, Red-necked Phalaropus lobatus

Plover, Kentish Charadrius alexandrinus

Plover, Little Ringed Charadrius dubius

Quail, Common Coturnix coturnix

Redstart, Black Phoenicurus ochruros

Redwing Turdus iliacus

Rosefinch, Scarlet Carpodacus erythrinus
Ruff Philomachus pugnax

Sandpiper, Green

Sandpiper, Purple

Sandpiper, Wood

Scaup

Scoter, Common

Scoter, Velvet

Serin

Tringa ochropus

Calidris maritima

Tringa glareola

Aythya marila

Melanitta nigra

Melanitta fusca

Serinus serinus

Shorelark Eremophila alpestris

Shrike, Red-backed Lanius collurio
Spoonbill Platalea leucorodia

Stilt, Black-winged Himantopus himantopus
Stint, Temminck's Calidris temminckii
Swan, Bewick's Cygnus bewickii
Swan, Whooper Cygnus cygnus
Tern, Black Chlidonias niger
Tern, Little Sterna albifrons
Tern, Roseate Sterna dougallii

Tit, Bearded Sterna dougaiiii

Panurus biarmicus

Tit, Crested Parus cristatus

Treecreeper, Short-toed Certhia brachydactyla

Warbler, Cetti's Cettia cetti
Warbler, Dartford Sylvia undata

Warbler, Marsh Acrocephalus palustris
Warbler, Savi's Locustella luscinioides
Whimbrel Numenius phaeopus
Woodlark Lullula arborea
Wryneck Jynx torquilla

## **Textual Amendments**

F412 Sch. 1 Pt. I: Words inserted (S.) (4.11.2001) by S.S.I. 2001/337, reg. 2(3)

#### PART II

# DURING THE CLOSE SEASON

Common nameScientific nameGoldeneyeBucephala clangulaGoose, Greylag (in Outer Hebrides,<br/>Caithness, Sutherland and Wester Ross only)Anser anserPintailAnas acuta

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the comon name or names shall not be taken into account.

# [<sup>F413</sup>SCHEDULE 1A

# BIRDS WHICH ARE PROTECTED FROM HARASSMENT

# **Textual Amendments**

**F413** Sch. 1A inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 25**; S.S.I. 2004/495, **art. 2** 

Common name	Scientific name
Eagle, White-tailed	Haliaetus albicilla

# SCHEDULE 2

Sections 2, 3, and 22.

# BIRDS WHICH MAY BE KILLED OR TAKEN

# PART I

# OUTSIDE THE CLOSE SEASON

Common name	Scientific name
[F414Capercaillie]	[F414Tetrao urogallus]
Coot	Fulica atra
Duck, Tufted	Aythya fuligula
Gadwall	Anas strepera
Goldeneye	Bucephala clangula
Goose, Canada	Branta canadensis
Goose, Greylag	Anser anser
Goose, Pink-footed	Anser brachyrhynchus
Goose, White-fronted (in England and Wales only)	Anser albifrons
Mallard	Anas platyrhynchos
Moorhen	Gallinula chloropus
Pintail	Anas acuta
Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
Shoveler	Anas clypeata
Snipe, Common	Gallinago gallinago
Teal	Anas crecca

Wigeon Anas penelope Woodcock Scolopax rusticola

# **Textual Amendments**

F414 Sch. 2 Pt. 1 words omitted (S.) (4.11.2001) by S.S.I. 2001/337, reg. 2(4)

# PART II BY AUTHORISED PERSONS AT ALL TIMES

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Common name	Scientific name	
F415	F415	
F415	F415	
F415	F415	
F415	F415	
F415	F415	
F415	F415	
F415	F415	
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F415	F415	
F415	F415	
F415	 F415	
F415	 F415	
 P45		
F415	F415	
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#### **Textual Amendments**

F415 Words in Sch.2 Pt. II removed (01.01.1993) by S.I. 1992/3010, art.2.

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

# SCHEDULE 3

Sections 6 and 22.

# BIRDS WHICH MAY BE SOLD

#### PART I

# ALIVE AT ALL TIMES IF RINGED AND BRED IN CAPTIVITY

Common name	Scientific name
Blackbird	Turdus merula
Brambling	Fringilla montifringilla
Bullfinch	Pyrrhula pyrrhula
Bunting, Reed	Emberiza schoeniclus
Chaffinch	Fringilla coelebs
Dunnock	Prunella modularis
Goldfinch	Carduelis carduelis
Greenfinch	Carduelis chloris
Jackdaw	Corvus monedula
Jay	Garrulus glandarius
Linnet	Carduelis cannabina
Magpie	Pica pica
Owl, Barn	Tyto alba
Redpoll	Carduelis flammea
Siskin	Carduelis spinus
Starling	Sturnus vulgaris
Thrush, Song	Turdus philomelos
Twite	Carduelis flavirostris
Yellowhammer	Emberiza citrinella

#### PART II

# DEAD AT ALL TIMES

Common name	Scientific name
F416	F416
• • •	• • •
Woodpigeon	Columba palumbus

#### **Textual Amendments**

**F416** Words in Sch. 3 Pt. II removed (01.01.1993) by S.I. 1992/3010, art.3.

#### PART III

#### DEAD FROM 1ST SEPTEMBER TO 28TH FEBRUARY

Common name	Scientific name
[F417 Capercaillie]	[F417Tetrao urogallus]
Coot	Fulica atra
Duck, Tufted	Aythya fuligula
Mallard	Anas platyrhynchos
Pintail	Anas acuta
Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
Shoveler	Anas clypeata
Snipe, Common	Gallinago gallinago
Teal	Anas crecca
Wigeon	Anas penelope
Woodcock	Scolopax rusticola

# **Textual Amendments**

**F417** Sch. 3 Pt. III: Words omitted (S.) (4.11.2001) by S.S.I. 2001/337, reg. 2(5)

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

# SCHEDULE 4

Sections 7 and 22.

# BIRDS WHICH MUST BE REGISTERED AND RINGED IF KEPT IN CAPTIVITY

F418	Common name	Scientific name	
F418         F418           F419         F419           F418         F418           F418         F418           F418         F418           F419         F419           F418         F418           F418         F418           F418         F418           F418         F418           F418         F418           F418         F418           F418 <td>F418</td> <td>F418</td> <td></td>	F418	F418	
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F418          F418          F418          F419          F418          F419       F418             F419       F419		•••	
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F419            F418       F418          F418          F418             F418       F418             F418       F418          F418             F418       F418             [F420Falcons (all species)]       [F420Falconidae]         F419       F419	F418	F418	
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F418       F418          F418          F418         F418       F418          F418 $[^{F420}$ Falcons (all species)] $[^{F420}$ Falconidae]         F419       F419	F418	F418	
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F418       F418          F418          F418             [F420] Falcons (all species)]       [F420] Falconidae]         F419       F419	F418	F418	
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F418 $ \begin{bmatrix} F420 \\ Falcons \end{bmatrix} $ F419  F419  F419  F419	F418	F418	
[F420 Falcons (all species)] [F420 Falconidae] F419 F419	• • •	• • •	
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	[F420Falcons (all species)]	[F420Falconidae]	
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[F420] Hawks, True (except Old world vultures) that is to say, Buzzards, Eagles, Harriers, Hawks and Kites (all species in each case)]	[F420] Accipitridae (except the genera Aegypius, Gypaetus, Gypohierax, Gyps, Neophron, Sarcogyps and Trigonoceps)]
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	Pandion haliaetus
Osprey	
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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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#### **Textual Amendments**

**F418** Entries in Sch. 4 removed (24.5.1994) by S.I. 1994/1151, art. 2

F419 Sch. 4: entries omitted (E.) (1.10.2008) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (England) Order 2008 (S.I. 2008/2356), arts. 2, 3(1)(2); and those same entries omitted (W.) (23.4.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Wales) Order 2009 (S.I. 2009/780), art. 2(2); and those same entries removed (S.) (21.12.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Scotland) Order 2009 (S.S.I. 2009/418), art. 2(1)

F420 Sch. 4: entries removed (24.5.1994) subject to specified exceptions by The Wildlife and Countryside Act 1981 (Variation of Schedule 4) Order 1994 (S.I. 1994/1151), art. 2; and further specified entries (except the entries for Falcon, Peregrine (Falco peregrinus) and Merlin (Falco columbarius) under the heading "Falcons (all species)" and except the entries for Buzzard, Honey (Pernis apivorus), Eagle, Golden (Aquila chrysaetos), Eagle, White-tailed (Haliaeetus albicilla), Goshawk (Accipter gentilis), Harrier, Marsh (Circus aeruginosus) and Harrier, Montagu's (Circus pygargus) under the heading "Hawks, True") omitted (E.) (1.10.2008) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (England) Order 2008 (S.I. 2008/2356), arts. 2, 3(1)(2); and those same specified entries omitted (W.) (23.4.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Wales) Order 2009 (S.I. 2009/780), art. 2(2); and those same specified entries removed (S.) (21.12.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Scotland) Order 2009 (S.S.I. 2009/418), art. 2(1)

F421 Sch. 4: words omitted (E.) (1.10.2008) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (England) Order 2008 (S.I. 2008/2356), arts. 2, 3(3); and those same words omitted (W.) (23.4.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Wales) Order 2009 (S.I. 2009/780), art. 2(3); and those same words removed (S.) (21.12.2009) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Scotland) Order 2009 (S.S.I. 2009/418), art. 2(2)

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

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Act contains provisions that are prospective.

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

# F422SCHEDULE 5 E+W

Sections 9, 10, 22 and 24.

# ANIMALS WHICH ARE PROTECTED

#### **Extent Information**

**E28** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### **Textual Amendments**

**F422** By S.I. 1988/288, art. 2(2) it is provided that all Dolphins (Cetacea) and all Porpoises (Cetacea) not already listed in Schedule 5 are added to that Schedule and by S.I. 2007/1843, **reg. 7(7)(g)** it is provided that said Dolphins (all species) and Porpoises (all species) are omitted (E.W.) (21.8.2007)

Common name	Scientific name
[F423] Adder (in respect of section 9(5) only)]	[F423Vipera berus]
$[^{F424}$ Allis Shad (in respect of section 9(1) and (4)(a) only)]	[ <sup>F424</sup> Alosa alosa]
[F425] Anemone, Ivell's Sea]	[ <sup>F425</sup> Edwardsia ivelli]
[F425] Anemone, Startlet Sea]	[F425Nematosella vectensis]
[F425Apus]	[F425Triops cancriformis]
Bats, Horseshoe (all species [F426but in respect of section 9(4)(b) and (c) and (5) only])	Rhinolophidae
Bats, Typical (all species [F427but in respect of section 9(4)(b) and (c) and (5) only])	Vespertilionidae
[F428Beetle]	[F428Graphoderus zonatus]
[F428Beetle]	[F428Hypebaeus flavipes]
[F428Beetle]	[F428Paracymus aeneus]
[F428Beetle, Lesser Silver Water]	[F428Hydrochara caraboides]
[F428Beetle, Mire Pill (in respect of section 9(4)(a) only)]	[F428Curimopsis nigrita]
Beetle, Rainbow Leaf	Chrysolina cerealis
[F429Beetle, Stag (in respect of section 9(5) only)]	[F429Lucanus cervus]
[F425Beetle, Violet Click]	[F425Limoniscus violaceus]
Burbot	Lota lota
 F430	 F430
[F431Butterfly, Northern Brown Argus]	[F431Aricia artaxerxes]

[F431Butterfly, Adonis Blue]	[F431Lysandra bellargus]
[F431Butterfly, Chalkhill Blue]	[F431Lysandra coridon]
[F431Butterfly, Silver-studded Blue]	[F431Plebejus argus]
[F431Butterfly, Small Blue]	[F431Cupido minimus]
[F424Butterfly, Large Copper]	[F424Lycaena dispar]
[F431Butterfly, Purple Emperor]	[F431 Apatura iris]
[F431Butterfly, Duke of Burgandy Fritillary]	[F431Hamearis lucina]
[F431Butterfly, Glanville Fritillary]	[F431 Melitaea cinxia]
Butterfly, Heath Fritillary	Mellicta athalia (otherwise known as Melitaea athalia)
[F432Butterfly, High Brown Fritillary]	[F432 Argynnis adippe]
[F424Butterfly, Marsh Fritillary]	[F424Eurodryas aurinia]
[F431Butterfly, Pearl-bordered Fritillary]	[F431Boloria euphrosyne]
[F431Butterfly, Black Hairstreak]	[F431Strymonidia pruni]
[F431Butterfly, Brown Hairstreak]	[F431Thecla betulae]
[F431Butterfly, White Letter Hairstreak]	[F431Stymonida w-album]
[F431Butterfly, Large Heath]	[F431Coenonympha tullia]
Butterfly, Large Blue[F433 (in respect of section 9(4)(b) and (c) and (5) only)]	Maculinea arion
[F431Butterfly, Mountain Ringlet]	[F431Erebia epiphron]
 F430	F430
[F431Butterfly, Chequered Skipper]	[F431 Carterocephalus palaemon]
[F431Butterfly, Lulworth Skipper]	[F431Thymelicus acteon]
[F431Butterfly, Silver Spotted Skipper]	[F431Hesperia comma]
Butterfly, Swallowtail	Papilio machaon
[F431Butterfly, Large tortoiseshell]	[F431Nymphalis polychloros]
[F431Butterfly, Wood White]	[F431 Leptidea sinapis]
[F425Cat, Wild][F433 (in respect of section 9(4) (b) and (c) and (5) only)]	[F425Felis silverstris]
[F425Cicada, New Forest]	[F425Cicadetta montana]
[F434Crayfish, Atlantic Stream]	[F434] Austropotamobius pallipes]
Cricket, Field	Gryllus campestris
Cricket, Mole	Gryllotalpa gryllotalpa

[F429 Dameselfly, Southern]	[F429 Coenagrion mercuriale]
F435	F435
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[F436ccDolphins (all species but in respect of section 9(4A) and (5) only)	Cetacea"]
[F425Dormouse][F433 (in respect of section 9(4) (b) and (c) and (5) only)]	[F425 Muscardinus avellanarius]
Dragonfly, Norfolk Aeshna	Aeshna isosceles
Frog, Common (in respect of section 9(5) only)	Rana temporaria
[F429Goby, Couch's]	[F429 Gobius couchii]
[F429Goby, Giant]	[F429Gobius cobitis]
Grasshopper, Wart-biter	Decticus verrucivorus
[F428 Hatchet Shell, Northern]	[F428 Thyasira gouldi]
[F429Hydroid, Marine]	[F429 Clavopsella navis]
[F428Lagoon Snail]	[F428Paludinella littorina]
[F428Lagoon Snail, De Folin's]	[F428Caecum armoricum]
[F428Lagoon Worm, Tentacled]	[F428 Alkmaria romijni]
[F425 Leech, Medicinal]	[F425Hirudo medicinalis]
Lizard, Sand[F433 (in respect of section 9(4) (b) and (c) and (5) only)]	Lacerta agilis
[F437Lizard, Viviparous (in respect of section 9(5) only)]	[F437Lacerta vivipara]
[F425 Marten, Pine]	[F425Martes martes]
[F425Mat. Trembling Sea]	[F425Victorella pavida]
Moth, Barberry Carpet	Pareulype berberata
Moth, Black-veined	Siona lineata (otherwise known as Idaea lineata)
Moth, Essex Emerald	Thetidia smaragdaria
[F429Moth, Fiery Clearwing]	[F429Bembecia chrysidiformis]
[F429] Moth, Fisher's Estuarine] [F438] (in respect of section 9(4)(b) and (c) and (5) only)]	[F429Gortyna borelii]
Moth, New Forest Burnet	Zygaena viciae
Moth, Reddish Buff	Acosmetia caliginosa

[F428] Moth, Sussex Emerald]	[F428Thalera fimbrialis]
F439	F439
[F429Mussel, Fan (in respect of section 9(1), (2) and (5) only)]	[F429Atrina fragilis]
[F440 Mussel, Freshwater Pearl]	[F440Margaritifera margaritifera]
[F441]Newt, Great Crested or Warty (in respect of section 9(4)(b) and (c) and (5) only)]	Triturus cristatus
Newt, Palmate (in respect of section 9(5) only)	Triturus helveticus
Newt, Smooth (in respect of section 9(5) only)	Triturus vulgaris
Otter, Common[F433 (in respect of section 9(4)(b) and (c) and (5) only)]	Lutra lutra
F435	F435
[F442···Porpoises (all species but in respect of section 9(5) only)	Cetacea"]
[F425Sandworm, Lagoon]	[F425 Armandia cirrhosa]
[F428]Sea Fan, Pink (in respect of section 9(1), 9(2) and 9(5) only]	[F428 Eunicella verrucosa]
[F443 Seahorse, Short Snouted (with respect to England [F444 and Wales]only)]	[F443Hippocampus hippocampus]
[F443 Seahorse, Spiny (with respect to England F445 and Wales only)]	[F443Hippocampus guttulatus]
[F428Sea Slug, Lagoon]	[F428 Tenellia adspersa]
[F429 Shad, Twaite (in respect of section 9(4) (a) only)]	[F429Alosa fallax]
[F443 Shark, Angel (in respect of section 9(1) only and with respect to England [F446 and Wales], other than the excluded waters, only)]	[F443Squatina squatina]
[F429Shark, Basking]	[F429Cetorhinus maximus]
[F425Shrimp, Fairy]	[F425Chirocephalus diaphanus]
[F425Shrimp, Lagoon Sand]	[F425Gammarus insensiblis]
[ <sup>F437</sup> Slow-worm (in respect of section 9(5) only)]	[F437Anguis fragilis]
F430	F430

Snail, Glutinous	Myxas glutinosa
[F443] Snail, Roman (in respect of section 9(1), (2) and (5) only and with respect to England [F447] and Wales]only)]	[F443Helix pomatia]
Snail, Sandbowl	Catinella arenaria
[F437 Snake, Grass (in respect of section 9(5) only)]	[F437]Natrix helvetica (also known as Natrix natrix)]
Snake, Smooth[F433 (in respect of section 9(4) (b) and (c) and (5) only)]	Coronella austriaca
Spider, Fen Raft	Dolomedes plantarius
Spider, Ladybird	Eresus niger
Squirrel, Red	Sciurus vulgaris
[F428 Sturgeon] F433 (in respect of section 9(4) (b) and (c) and (5) only)]	[F428 Acipenser sturio]
Toad, Common (in respect of section 9(5) only)	Bufo bufo
Toad, Natterjack[F433 (in respect of section 9(4)(b) and (c) and (5) only)]	Bufo calamita
[F448"Turtle, Flatback	Natator depressus"]
[F449Turtle, Green Sea (in respect of section 9(4)(b) and (c) and (5) only)	Chelonia mydas"]
[F450Turtle, Hawksbill (in respect of section 9(4)(b) and (c) and (5) only)	Eretmochelys imbricata"]
[F451."Turtle, Kemp's Ridley Sea (in respect of section 9(4)(b) and (c) and (5) only)	Lepidochelys kempii"]
[F452."Turtle, Leatherback Sea (in respect of section 9(4)(b) and (c) and (5) only)	Dermochelys coriacea"]
[F453."Turtle, Loggerhead Sea (in respect of section 9(4)(b) and (c) and (5) only)	Caretta caretta"]
[F454ccTurtle, Olive Ridley	Lepidochelys olivacea".]
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	• • •
[F425Vendace]	[F425Coregonus albula]
[F429Vole, Water F456]	[F429 Arvicola terrestris]
[ <sup>F425</sup> Walrus]	[F425Odebenus rosmarus]
[F425Whale (all species)][F457] but in respect of section 9(4A) and (5) only]	[F425Cetacea]

# [F425Whitefish]

# [F425 Coregonus lavaretus]

#### **Textual Amendments**

- F423 By virtue of S.I. 1991/367, art. 2(1) entry is further listed in respect of section 9(1) so far as it relates to killing and injuring
- **F424** By virtue of S.I. 1998/878, art. 2(2) entries in Sch. 5 added (16.4.1998) in substitution for the existing entries
- **F425** Entry added as provided by S.I. 1988/288, art. 2(1)
- **F426** Sch. 5: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(b)
- F427 Sch. 5: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(c)
- F428 Entries in Sch. 5 added (29.10.1992) by S.I. 1992/2350, art. 2(1)
- **F429** Entries in Sch. 5 added (16.4.1998) by S.I. 1998/878, art. 2(1)
- F430 Entry removed from Schedule as provided by S.I. 1988/288, art. 2(5)
- **F431** Entry added (in respect of s. 9(5) only) by S.I. 1989/906, art. 2
- F432 Entries in Sch. 5 substituted (29.10.1992) by S.I. 1992/2350, art. 2(2)
- **F433** Sch. 5: words in entries inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(a)
- **F434** Entry added (only in respect of s. 9(1) so far as it relates to taking and in respect of s. 9(5)) by S.I. 1988/288, art. 2(3)
- F435 Sch. 5: entries relating to dolphins or porpoises omitted (21.7.2007) by virtue of The Conservation (Natural Habitats &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), art. 7(7)(g)
- **F436** Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(h)
- F437 By S. I. 1988/288, art. 2(4) entry (which is already listed in respect of section 9(5) only) is further listed in respect of s. 9(1) so far as it relates to killing and injuring
- **F438** Sch. 5: words inserted (E.W.) (1.10.2008) by The Conservation (Natural Habitats, &c.) (Amendment) (England and Wales) Regulations 2008 (S.I. 2008/2127), reg. 4
- **F439** Entry in Sch. 5 (which was added as provided by S.I. 1988/288, art. 2(1)) removed (16.4.1998) by S.I. 1998/878, art. 2(3)
- F440 By virtue of S.I. 1998/878, art. 2(2) entry in Sch. 5 added (27.3.1998) in substitution for the existing entry
- F441 Sch. 5: words in entry substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(d)
- **F442** Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- **F443** Sch. 5: entries inserted (E.W.) (6.4.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (England) Order 2008 (S.I. 2008/431), art. 2, **Sch.**
- F444 Sch. 5: words in entry relating to "Seahorse, Short Snouted" inserted (E.W.) (12.8.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(a)
- F445 Sch. 5: words in entry relating to "Seahorse, Spiny" inserted (E.W.) (12.8.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(b)
- F446 Sch. 5: words in entry relating to "Shark, Angel" inserted (E.W.) (12.8.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(c)
- F447 Sch. 5: words in entry relating to "Snail, Roman" inserted (E.W.) (12.8.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(d)
- **F448** Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- **F449** Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}

- F450 Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- F451 Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- F452 Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- **F453** Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- F454 Sch. 5: entry added (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(7)(h)}
- **F455** Sch. 5: entry of "Turtles, Marine (all species)" and "Dermochelyidae and Cheloniidae" omitted (E.W.) (21.8.2007) by virtue of The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(7)(e)**
- **F456** Sch. 5: words in entry relating to "Vole, Water" omitted (E.W.) (12.8.2008) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(e)
- F457 Sch. 5: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(7)(f)

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

[F458]NOTE 2. In this Schedule "excluded waters" means the part of the territorial waters adjacent to England [F459] and Wales] which is more than 6 nautical miles from the baselines from which the breadth of those waters are measured; and for these purposes "nautical miles" means international nautical miles of 1,852 metres.]

#### **Textual Amendments**

- F458 Sch. 5: Note 2 inserted (E.W.) (6.4.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (England) Order 2008 (S.I. 2008/431), art. 2(c)
- **F459** Sch. 5 Note 2: words inserted (E.W.) (12.8.2008) by The Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008 (S.I. 2008/1927), art. 2(f)

#### SCHEDULE 6

Sections 11 and 22.

#### ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY CERTAIN METHODS

Common name	Scientific name
Badger	Meles meles
Bats, Horseshoe (all species)	Rinolophidae
Bats, Typical (all species)	Vespertilionidae
Cat, Wild	Felis silvestris
Dolphin, Bottle-nosed	Tursiops truncatus (otherwise known as Tursiops tursio)
Dolphin, Common	Delphinis delphis

Dormice (all species) Gliridae

Hedgehog Erinaceus europaeus

Marten, Pine Martes martes
Otter, Common Lutra lutra

Polecat Mustela putorius

Porpoise, Harbour (otherwise known as

Common porpoise)

Phocaena phocaena

Shrews (all species) Soricidae

Squirrel, Red Sciurus vulgaris

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

#### SCHEDULE 7

## PROTECTION OF CERTAIN MAMMALS

## The Ground Game Act 1880

- 1 (1) Notwithstanding the provisions of section 6 of the M45Ground Game Act 1880, it shall not be unlawful for the occupier of any land himself, or one other person authorised by him under section 1 of that Act, to use firearms for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise if (except where he has the exclusive right) the occupier has the written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.
  - (2) In this paragraph "ground game" means hares and rabbits.

# **Marginal Citations**

M45 1880 c. 47.

# The Agriculture (Scotland) Act 1948

- 2 (1) Notwithstanding the provisions of section 50(1)(a) of the M46 Agriculture (Scotland) Act 1948, it shall not be unlawful for the owner of the shooting rights on any land or any person holding those rights from him, or subject to sub-paragraph (2) below the occupier of any land, to use a firearm for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise.
  - (2) The occupier of any land shall not use a firearm as mentioned in sub-paragraph (1) above unless (except where he has the exclusive right) he has first obtained the

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.
- (3) An occupier who is entitled, in terms of this paragraph, to use a firearm for the purpose of killing ground game may, subject to the provisions of section 1 of the Ground Game Act 1880, authorise one other person so to use a firearm.
- (4) In this paragraph "ground game" means hares and rabbits.

#### **Marginal Citations**

**M46** 1948 c. 45.

# The Dogs (Protection of Livestock) Act 1953

- X153 (1) At the end of subsection (2) of section 1 of the M47 Dogs (Protection of Livestock)
  Act 1953 (penalty where dog worries livestock on agricultural land) there shall be inserted the words "or
  - (c) being at large (that is to say not on a lead or otherwise under close control) in a field or enclosure in which there are sheep".
  - (2) After that subsection there shall be inserted the following subsection—
    - "(2A) Subsection (2)(c) of this section shall not apply in relation to—
      - (a) a dog owned by, or in charge of, the occupier of the field or enclosure or the owner of the sheep or a person authorised by either of those persons; or
      - (b) a police dog, a guide dog, a trained sheep dog, a working gun dog or a pack of hounds."

## **Editorial Information**

**X15** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

# **Marginal Citations**

M47 1953 c. 28.

#### The Deer Act 1963

- [F460X164] For subsection (3) of section 10 of the M48 Deer Act 1963 (general exceptions) there shall be substituted the following subsections—
  - "(3) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of any smooth-bore gun for the purpose of killing any deer if he shows that the deer had been so seriously injured otherwise than by his unlawful act or was in such a condition that to kill it was an act of mercy.
  - (4) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use as a slaughtering instrument, for the purpose of killing any deer, of a smooth-bore gun which—
    - (a) is of not less gauge than 12 bore;

- (b) has a barrel less than 24 inches (609.6 millimetres) in length; and
- (c) is loaded with a cartridge purporting to contain shot none of which is less than .203 inches (5.16 millimetres) in diameter (that is to say, size AAA or any larger size)."]

#### **Editorial Information**

**X16** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Textual Amendments**

**F460** Sch. 7 para. 4 repealed (E.W.) (25.10.1991) by Deer Act 1991 (c. 54, SIF 4:3), ss. 17(6), 18(3), Sch.4.

# **Marginal Citations**

M48 1963 c. 36.

[F461X1751] After section 10 of that Act there shall be inserted the following section—

# " Exceptions for authorised persons.

- (1) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 1 of this Act by reason of—
  - (a) the taking of killing of any deer by means of shooting; or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it,

on any cultivated land, pasture or enclosed woodland.

- (2) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 1 of this Act by reason of—
  - (a) the taking or killing of any deer by means of shooting; or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it,

on any cultivated land, pasture or enclosed woodland.

- (2) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use, for the purpose of taking or killing any deer on any land, of any smooth-bore gun of not less guage than 12 bore which is loaded with—
  - (a) a cartridge containing a single non-spherical projectile weighing not less than 350 grains (22.68 grammes); or
  - (b) a cartridge purporting to contain shot each of which is .203 inches (5.16 millimetres) in diameter (that is to say, size AAA).
- (3) An authorised person shall not be entitled to rely on the defence provided by subsection (1) or (2) of this section as respects anything done in relation to any deer on any land unless he shows that—
  - (a) he had reasonable grounds for believing that caused, damage to crops, vegetables, fruit, growing timber or any other form of property on the land;

- (b) it was likely that further damage would be so caused and any such damage was likely to be serious; and
- (c) his action was necessary for the purpose of preventing any such damage.
- (4) The Secretary of State and the agriculture Minister acting jointly may by order, either generally or in relation to any area or any species and description of deer specified in the order, repeal subsection (2) of this section or amend it by adding any firearm or ammunition or by altering the description of, or deleting, any firearm or ammunition mentioned in it, or by adding any further conditions which must be satisfied.
- (5) Before making an order under subsection (4) of this section, the Secretary of State and the agriculture Minister shall consult organisations that appear to them to represent persons likely to be interested in or affected by the order.
- (6) In this section—

"agriculture Minister" means the Minister of Agriculture Fisheries and Food in relation to England and the Secretary of State for Wales in relation to Wales:

"authorised person" means—

- (a) the occupier of the land on which the action is taken;
- (b) any member of the occupier's household normally resident on the occupier's land, acting with the written authority of the occupier;
- (c) any person in the ordinary service of the occupier on the occupier's land, acting with the written authority of the occupier; or
- (d) any person having the right to take or kill deer on the land on which the action is taken or any person acting with the written authority of a person having that right."
- (2) In sections 1(1) and 3(1) of that Act for the words "sections 10 and 11" there shall be substituted the words "sections 10, 10A and 11".
- (3) For subsection (1) of section 12 of that Act (orders) there shall be substituted the following subsections—
  - "(1) Any power to make orders under this Act shall be exercisable by statutory instrument.
  - (1A) A statutory instrument containing an order under section 1(2) or 3(4) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (1B) No order under section 10A(4) of this Act shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament."

#### **Editorial Information**

**X17** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Textual Amendments**

F461 Sch. 7 para. 5 repealed (E.W.) (25.10.1991) by Deer Act 1991 (c. 54, SIF 4:3), ss. 17(6), 18(3), Sch.4.

- [F462X1861] In paragraph 1 of Schedule 2 to that Act (prohibited firearms and ammunition) the words "of less guage than 12 bore" shall be omitted.
  - (2) In paragraph 4 of that Schedule the words from "other than" onwards shall be omitted.

#### **Editorial Information**

**X18** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### **Textual Amendments**

F462 Sch. 7 para. 6 repealed (E.W.) (25.10.1991) by Deer Act 1991 (c. 54, SIF 4:3), ss. 17(6), 18(3), Sch.4.

## The Conservation of Seals Act 1970

- (1) In subsection (1)(c) of section 10 of the M49 Conservation of Seals Act 1970 (power to grant licences), the word "or" immediately following sub-paragraph (ii) shall be omitted and after sub-paragraph (iii) there shall be inserted the words "or
  - (iv) the protection of flora or fauna in an area to which subsection (4) of this section applies,".
  - (2) In subsection (3)(b) of that section for the words from "a nature reserve" onwards there shall substituted the words "an area to which subsection (4) of this section applies".
  - (3) After subsection (3) of that section there shall be inserted the following subsection—
    - "(4) This subsection applies to any area which—
      - (a) is a nature reserve within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949;
      - (b) has been notified under section 28(1) of the Wildlife and Countryside Act 1981 (areas of special scientific interest);
      - (c) is an area to which section 29(3) of that Act (special protection for certain areas of special scientific interest) applies; or
      - (d) has been designated as a marine nature reserve under section 36 of that Act."

#### **Editorial Information**

**X19** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## **Marginal Citations**

**M49** 1970 c. 30.

The Badgers Act 1973		
F463 <sub>8</sub>		
	Amendments ch. 7 para. 8 repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3),Sch.	
F4649		
	Amendments ch. 7 para. 9 repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3),Sch.	
F46510		
	Amendments ch. 7 para. 10 repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3),Sch.	
<sup>F466</sup> 11		
	Amendments ch. 7 para. 11 repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3),Sch.	
F46712		
	Amendments ch. 7 para. 12 repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3), Sch.	

#### SCHEDULE 8

Sections 13, 22 and 24.

## PLANTS WHICH ARE PROTECTED

Common name	Scientific name
[F468Adder's-tongue, Least]	[F468Ophioglossum lusitanicum]
Alison, Small	Alyssum alyssoides
[F469Anomodon, Long-leaved]	[F469Anomodon longifolius]
[F469Beech-lichen, New Forest]	[ <sup>F469</sup> Enterographa elaborata]
[F470Blackwort]	[F470 Southbya nigrella]
[F469Bluebell (in respect of section 13(2) only)]	[F469Hyacinthoides non-scripta]

[F469Bolete, Royal]	[F469Boletus regius]
Broomrape, Bedstraw	Orobanche caryophyllacea
Broomrape, Oxtongue	Orobanche loricata
Broomrape, Thistle	Orobanche reticulata
[F468Cabbage, Lundy]	[F468Rhynchosinapis wrightii]
Calamint, Wood	Calamintha sylvatica
[F470Caloplaca, Snow]	[F470Caloplaca nivalis]
[F470Catapyrenium, Tree]	[F470Catapyrenium psoromoides]
Catchfly, Alpine	Lychnis alpina
[F470Catillaria, Laurer's]	[F470Catellaria laurei]
[F470Centaury, Slender]	[F470Centaurium tenuiflorum]
Cinquefoil, Rock	Potentilla rupestris
[F469Cladonia, Convoluted]	[F469Cladonia convoluta]
[F470Cladonia, Upright Mountain]	[F470Cladonia stricta]
[F470Clary, Meadow]	[F470 Salvia pratensis]
Club-rush, Triangular	Scirpus triquetrus
[F468Colt's-foot, Purple]	[F468Homogyne alpina]
Cotoneaster, Wild	Cotoneaster integerrimus
[F468Cottongrass, Slender]	[F468 Eriophorum gracile]
Cow-wheat, Field	Melampyrum arvense
[F468Crocus, Sand]	[F468Romulea columnae]
[F470Crystalwort, Lizard]	[F470Riccia bifurca]
[F470Cudweed, Broad-leaved]	[F470Filago pryamidata]
Cudweed, Jersey	Gnaphalium luteoalbum
[F468Cudweed, Red-tipped]	[F468Filago lutescens]
[F469Cut-grass]	[F469Leersia oryzoides]
[F469 Deptford Pink (in respect of England and Wales only)]	[F469Dianthus armeria]
Diapensia	Diapensia lapponica
[F471]F470Dock, Shore][F472(in respect of section 13(2) only)]]	[F471[F470]Rumex rupestris]]
[F470 Earwort, Marsh]	[F470]Jamesoniella undulifolia]
Eryngo, Field	Eryngium campestre
[F469Feather-moss, Polar]	[F469Hygrohypnum polare]

Fern. Dickie's Bladder Cystopteris dickieana [F471Fern, Killarney F473 (in respect of [F471Trichomanes speciosum] section 13(2) only)]] I<sup>F470</sup>Leiocolea rutheana] [F470Flapwort, Norfolk] [F468Fleabane, Alpine] [F468 Erigeron borealis] [F468Fleabane, Small] [F468Pulicaria vulgaris] [F470Frostwort, Pointed] [F470Gymnomitrion apiculatum] [F469Fungus, Hedgehog] [F469Hericium erinaceum] Galingale, Brown Cyperus fuscus Gentian, Alpine Gentiana nivalis [F470 Gentian, Dune] [F470Gentianella uliginosa] [F471]F470Gentian, Early][F474(in respect of [F471]F470 Gentianella anglica]] section 13(2) only)]] [F468Gentian, Fringed] [F468Gentianella ciliata] Gentian, Spring Gentiana verna IF468Germander, Cut-leaved] [F468 Teucrium botrys] Germander, Water Teucrium scordium Gladiolus, Wild Gladiolus illyricus [F469Goblin Lights] [F469Catolechia wahlenbergii] [F468Goosefoot, Stinking] [F468Chenopodium vulvaria] [F468Grass-poly] [F468 Lythrum hyssopifolia] [F470Grimmia, Blunt-leaved] [F470Grimmia unicolor] [F470Gvalecta, Elm] [F470Gyalecta ulmi] Hare's-ear, Sickle-leaved Bupleurum falcatum Hare's-ear, Small Bupleurum baldense [F468 Crepis foetida] [F468 Hawk's-beard, Stinking] [F470 Hawkweed, Northroe] [F470Hieracium northroense] [F470 Hawkweed, Shetland] [F470Hieracium zetlandicum] [F470Hawkweed, Weak-leaved] [F470Hieracium attenuatifolium] Phyllodoce caerulea Heath, Blue Helleborine, Red Cephalanthera rubra [F468 Helleborine, Young's] [F468 Epipactis youngiana] [F468Horsetail, Branched] [F468 Equisetum ramosissimum]

[F468Cynoglossum germanicum]

[F468 Hound's-tongue, Green]

V	C-1
Knawel, Perennial	Scleranthus perennis
Knotgrass, Sea	Polygonum maritimum
[ <sup>F471</sup> Lady's-slipper [ <sup>F475</sup> (in respect of section 13(2) only)]]	[ <sup>F471</sup> Cypripedium calceolus]
F476	F476
	F476
[F470 Lecanactis, Churchyard]	[F470Lecanactis hemisphaerica]
[ <sup>F470</sup> Lecanora, Tarn]	[F470 Lecanora archariana]
[F470]Lecidea, Copper]	[F470 Lecidea inops]
Leek, Round-headed	Allium sphaerocephalon
Lettuce, Least	Lactuca saligna
[F470Lichen, Arctic Kidney]	[F470]Nephroma arcticum]
[F470Lichen, Ciliate Strap]	[F470]Heterodermia leucomelos]
[F470Lichen, Coralloid Rosette]	[F470]Heterodermia propagulifera]
[F470Lichen, Ear-lobed Dog]	[F470Peltigera lepidophora]
[F470Lichen, Forked Hair]	[F470Bryoria furcellata]
[F470Lichen, Golden Hair]	[F470 Teloschistes flavicans]
[F470 Lichen, Orange Fruited Elm]	[F470 Caloplaca luteoalba]
[F470Lichen, River Jelly]	[F470 Collema dichotomum]
[F470Lichen, Scaly Breck]	[F470Squamarina lentigera]
[F470Lichen, Stary Breck]	[F470Buellia asterella]
Lily, Snowdon	Lloydia serotina
[F470Liverwort]	[F470Petallophyllum ralfsi]
[F470 Liverwort, Lindenberg's Leafy]	[F470 Adelanthus lindenbergianus]
Marsh-mallow, Rough	Althaea hirsuta
[F471]F468Marshwort, Creeping][F477(in respect of section 13(2) only)]]	[F471 F468 Apium repens]]
[F468Milk-parsley, Cambridge]	[F468 Selinum carvifolia]
[ <sup>F470</sup> Moss]	[F470] Drepanocladius vernicosus]
[F470 Moss, Alpine Copper]	[F470 Mielichoferia mielichoferi]
[F470 Moss, Baltic Bog]	[F470Sphagnum balticum]
[F470 Moss, Blue Dew]	[F470Saelania glaucescens]

[F470 Moss, Blunt-leaved Bristle]	[F470]Orthotrichum obtusifolium]
[F470 Moss, Bright Green Cave	Cyclodictyon laetevirens]
[F470]Moss, Cordate Beard]	[F470Barbula cordata]
[F470 Moss, Cornish Path]	[F470Ditrichum cornubicum]
[F470 Moss, Derbyshire Feather]	[F470] Thamnobryum angustifolium]
[ <sup>F470</sup> Moss, Dune Thread]	[ <sup>F470</sup> Bryum mamillatum]
[F469 Moss, Flamingo]	[F469Desmatodon cernuus]
[F470 Moss, Glaucous Beard]	[ <sup>F470</sup> Barbula glauca]
[F470 Moss, Green Shield]	[F470Buxbaumia viridis]
[F470 Moss, Hair Silk]	[F470Plagiothecium piliferum]
[F470 Moss, Knothole]	[ <sup>F470</sup> Zygodon forsteri]
[F470 Moss Large Yellow Feather]	[F470Scorpidium turgescens]
[F470 Moss, Millimetre]	[F470]Micromitrium tenerum]
[F470 Moss, Multifruited River]	[F470Cryphaea lamyana]
[ <sup>F470</sup> Moss, Nowell's Limestone]	[F470Zygodon gracilis]
[ <sup>F470</sup> Moss, Rigid Apple]	[F470Bartramia stricta]
[ <sup>F470</sup> Moss, Round-leaved Feather]	[F470Rhynocostegium rotundifolium]
[F470 Moss, Schleicher's Thread]	[F470Bryum schleicheri]
[F470 Moss, Triangular Pygmy]	{ F470
	Acaulon triquetrum
[F470 Moss, Vaucher's Feather]	[F470Hypnum vaucheri]
[F470Mudwort, Welsh]	[F470Limosella australis]
[F468]Naiad, Holly-leaved]	[F468Najas marina]
[F471]F470Naiad, Slender][F478(in respect of section 13(2) only)]]	[F471[F470]Najas flexilis]]
[F470Orache, Stalked]	[F470 Halimione pedunculata]
Orchid, Early Spider	Ophryas sphegodes
[F471Orchid, Fen [F479(in respect of section 13(2) only)]]	[F471Liparis loeselii]
Orchid, Ghost	Epipogium aphyllum
[F470Orchid, Lapland Marsh]	[F470 Dactylorhiza lapponica]
Orchid, Late Spider	Ophrys fuciflora
Orchid, Lizard	Himantoglossum hircinum

Orchid, Military Orchis militaris Orchid, Monkey Orchis simia [F470Pannaria, Caledonia] [F470Pannaria ignobilis] [F470Parmelia, New Forest] [F470Parmelia minarum] [F470Parmentaria, Oil Stain] [F470Parmentaria chilensis] Pear, Plymouth Pyrus cordata [F470Penny-cress, Perfoliate] [F470Thlaspi perfoliatum] [F468Pennyroyal] [F468 Mentha pulegium] [F470Pertusaria, Alpine Moss] [F470Pertusaria bryontha] [F470Physcia tribacioides] [F470Physcia, Southern Grey] [F468Pigmyweed] [F468Crassula aquatica] [F470Pine, Ground] [F470 Ajuga chamaepitys] Pink, Cheddar Dianthus gratianopolitanus Pink, Childling Petroraghia nanteuilii [F471 F470 Luronium natans]] [F471]F470Plantain, Floating Water][F480(in respect of section 13(2) only)]] [F469Polypore, Oak] [F469Buglossoporus pulvinus] [F470Pseudocyphellaria, Ragged] [F470Pseudocyphellaria lacerata] [F470Psora, Rusty Alpine] [F470Psora rubiformis] [F469Puffball, Sandy Stilt] [F469Battarraea phalloides] [F468 Ragwort, Fen] [F468Senecio paludosus] [F468Ramping-fumitory, Martin's] [F468Fumaria martinii] [F470 Rampion, Spiked] [F470Phyteuma spicatum] [F468 Restharrow, Small] [F468Ononis reclinata] IF468 Rock-cress, Alpine IF468 Arabis alpinal [F468 Rock-cress, Bristol] [F468 Arabis stricta] [F470 Rustworth, Western] [F470 Marsupella profunda] Arenaria norvegica Sandwort, Norwegian Sandwort, Teesdale Minuartia stricta Saxifraga cernua Saxifrage, Drooping [F471 F470 Saxifrage hirulus]] [F471]F470Saxifrage, Marsh][F481(in respect of section 13(2) only)]] Saxifrage, Tufted Saxifraga cespitosa

[F470] Solenopsora, Serpentine] [F470] Solenopsora liparina]
Solomon's-seal, Whorled Polygonatum verticillatum

Sow-thistle, Alpine Cicerbita alpina

Spearwort, Adder's-tongue Ranunculus ophioglossifolius

[F468Speedwell, Fingered] [F468Veronica triphyllos]

Speedwell, Spiked Veronica spicata

[F469Spike-rush, Dwarf] [F469Eleocharis parvula]

[F469 Stack Fleawort, South] [F469 Tephroseris integrifolia (ssp maritima)]

[F468Star-of-Bethlehem, Early] [F468Gagea bohemica]
Starfruit Damasonium alisma

[F470Stonewort, Bearded] [F470Chara canescens]

[F468Stonewort, Foxtail] [F468Lamprothamnium papulosum]

[F468Strapwort] [F468Corrigiola litoralis]

[F469] Sulphur-tresses, Alpine] [F469] Alectoria ochroleuca] [F469] Threadmoss, Long-leaved] [F469] Bryum neodamense]

[F470 Turpswort] [F470 Geocalyx graveolens]

Violet, Fen Viola persicifolia

[F468Viper's-grass] [F468Scorzonera humilis]

Water-plantain, Ribbon leaved
Wood-sedge, Starved
Carex depauperata
Woodsia, Alpine
Woodsia, Oblong
Woodsia ilvensis
Wormwood, Field
Artemisia campestris

Woundwort, Downy

Stachys germanica

Woundwort, Limestone

Stachys alpina

Yellow-rattle, Greater Rhinanthus serotinus

#### **Textual Amendments**

**F468** Entry in Sch. 8 added by S.I. 1988/288, art. 3

F469 Entries in Sch. 8 added (16.4.1998) by S.I. 1998/878, art. 3

**F470** Entries in Sch. 8 added (29.10.1992) by S.I. 1992/2350, art. 3(1)

**F471** Sch. 8: entries removed (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80), reg. 29

F472 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(a) F473 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(b) F474 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(c) F475 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(d) F476 Entries in Sch. 8 removed (29.10.1992) by S.I. 1992/2350, art. 3(2) F477 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(e) F478 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(f) F479 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(g) F480 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(h) F481 Sch. 8: words in entry inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), reg. 7(8)(i)

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

## SCHEDULE 9

Sections 14 and 22.

#### Animals and plants to which section 14 applies

## PART I

#### ANIMALS WHICH ARE ESTABLISHED IN THE WILD

Common name	Scientific name
Bass, Large-mouthed Black	Micropterus salmoides
Bass, Rock	Ambloplites rupestris
Bitterling	Rhodeus sericeus
[F482Boar, Wild]	[F482Sus scrofa]
[F483Budgerigar]	[F483Melopsittacus undulatus]
Capercaillie	Tetrao urogallus
[F482Chough]	[F482Pyrrhocorax pyrrhocorax]
[F482Corncrake]	[F482Crex crex]
[ <sup>F483</sup> Coypu]	[F483Myocastor coypus]
[F482Crab, Chinese Mitten]	[F482Eriocheir sinensis]

Goose, Egyptian

Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[F484Crayfish, Noble] [F484 Astacus astacus] [F482Crane, Common] [F482Grus grus] [F482 Crayfish, Red Swamp] [F482Procambarus clarkii] [F484Crayfish, Signal] [F484Pacifastacus leniusculus] [F482Orconectes limosus] [F482Crayfish, Spiny-cheek] [F484Crayfish, Turkish] [F484] Astacus leptodactylus [F482 Deer, Chinese Water] [F482Hvdropotes inermis] [F485 Deer, Muntjac] [F485 Muntiacus reevesi] [F484 Deer, Sika] [F484Cervus nippon] I<sup>F486</sup> Deer, any hybrid one of whose parents [F486 Any hybrid of Cervus nippon] or other lineal ancestor was a Sika Deerl [F483 F486 Cervus]] [F483]F486 With respect to the Outer Hebrides and the isalnds of Aaran, Islay, Jura and Rum - (a)Deer, Cervus(allspecies)]]  $I^{F483}I^{F486}$  (b)Deer, any hybrid one of whose [F483 F486 Any hybrid of the genus Cervus]] parents or other lineal ancestor was a species of Cervus Deer]] Dormouse, Fat Glis glis Duck, Carolina Wood Aix sponsa Duck, Mandarin Aix galericulata Duck, Ruddy Oxyura jamaicensis Eagle, White-tailed Haliaetus albicilla [F482Flatworm] [F482Kontikia andersoni] [F482Flatworm] [F482Kontikia ventrolineata] [F482Flatworm, Australian] [F482] Australoplana sanguinea] I<sup>F484</sup>Flatworm. New Zealandl I<sup>F484</sup>Artiposthia triangulatal Frog, Edible Rana esculenta Frog, European Tree (otherwise known as Hyla arborea Common tree frog) Frog, Marsh Rana ridibunda [F483 Meriones unguiculatus] [F483Gerbil, Mongolian] [F482Goose, Bar-headed] [F482 Anser indicus] [F482Goose, Barnacle] [F482Branta leucopsis] Goose, Canada Branta canadensis

Alopochen aegyptiacus

Cynomys

Lepomis gibbosus

[F482]Goose, Emperor][F482]Anser canagicus][F482]Goose, Snow][F482]Anser caerulescens][F482]Goshawk][F482]Accipiter gentilis]Heron, NightNycticorax nycticorax[F482]Kite, Red][F482]Milvus milvus]

[F482Limpet, Slipper] [F482Crepidula fornicata]

Lizard, Common Wall Podarcis muralis

Marmot, Prairie (otherwise known as Prairie

dog)

Mink, American Mustela vison
Newt, Alpine Triturus alpestris

[F484]Newt, Italian Crested] [F484]Triturus carnifex]

[F487 Owl, Barn] [F487 Tyto alba]
[F482 Owl, Eagle] [F482 Bubo bubo]

[F482 Oyster Drill, American] [F482 Urosalpinx cinerea]
[F482 Parakeet, Monk] [F482 Myiopsitta monachus]

Parakeet, Ring-necked
Psittacula krameri
Partridge, Chukar
Alectoris chukar
Partridge, Rock
Alectoris graeca
Pheasant, Golden
Chrysolophus pictus
Pheasant, Lady Amherst's
Chrysolophus amherstiae

Pheasant, Reeves' Syrmaticus reevesii
Pheasant, Silver Lophura nycthemera

[F482Pochard, Red-crested] [F482Netta rufina]

[F483Porcupine, Crested] [F483Hystrix cristata]

[F483Porcupine, Himalayan] [F483Hystrix hodgsonii]

Pumpkinseed (otherwise known as Sun-fish

or Pond-perch)

[F483 Quail, Bobwhite] [F483 Colinus virginianus]

Rat, Black Rattus rattus

[F482] Shelduck, Ruddy] [F482] Tadorna ferruginea]
[F484] Snake, Aesculapian] [F484] Elaphe longissima]
Squirrel, Grey Sciurus carolinensis
[F482] Swan, Black] [F482] Cygnus atratus.]

Terrapin, European Pond Emys orbicularis
Toad, African Clawed Xenopus laevis
Toad, Midwife Alytes obstetricans
Toad, Yellow-bellied Bombina variegata
Wallaby, Red-necked Macropus rufogriseus

Wels (otherwise known as European catfish) Silurus glanis

Zander Stizostedion lucioperca

#### **Textual Amendments**

F482 Entries in Sch. 9 Pt. 1 added (E.W.) (6.4.2010) by The Wildlife and Countryside Act 1981 (Variation of Schedule 9) (England and Wales) Order 2010 (S.I. 2010/609), art. 2(2)

**F483** Entries in Sch. 9 Pt. 1 removed (E.W.) (6.4.2010) by virtue of The Wildlife and Countryside Act 1981 (Variation of Schedule 9) (England and Wales) Order 2010 (S.I. 2010/609), art. 2(3)

F484 Entries in Sch. 9 Pt. I added (17.3.1992) by S.I. 1992/320, art. 2.

F485 Entry in Sch. 9 Pt. I added (5.3.1997) by S.I. 1997/226, art. 2

F486 Entries in Sch. 9 Pt. I added (28.4.1999) by S.I. 1999/1002, art. 2

**F487** Entry in Sch. 9 Pt. I added (25.11.1992) by S.I. 1992/2674, art. 2.

# PART II E+W+S

### **PLANTS**

Common name	Scientific name
[F488False-acacia	Robinia pseudoacacia]
[ <sup>F488</sup> Fanwort	Cabomba caroliniana]
[ <sup>F488</sup> Fern, Water	Azolla filiculoides]
[ <sup>F488</sup> Fig, Hottentot	Carpobrotus edulis]
Hogweed, Giant	Heracleum mantegazzianum
[F488]Hyacinth, water	Eichhornia crassipes]
[F489Kelp, Giant]	[F489Macrocystis angustifolia]
[F489Kelp, Giant]	[F489]Macrocystis integrifolia]
[F489Kelp, Giant]	[F489Macrocystis laevis]
Kelp, Giant	Macrocystis pyrifera
[F489Kelp, Japanese]	[F489Laminaria japonica]
Knotweed, Japanese	Polygonum cuspidatum
[ <sup>F488</sup> Leek, Few-flowered	Allium paradoxum]
[ <sup>F488</sup> Lettuce, water	Pistia stratiotes]

[F488Parrot's-feather Myriophyllum aquaticum]

[F488Pennywort, Floating Hydrocotyle ranunculoides]

[F488 Salvinia, Giant Salvinia molesta]

[F489] Seafingers, Green] [F489] Codium fragile tomentosoides]

[F489] Seaweed, Californian Red] [F489] Pikea californica]

[F489] Seaweed, Hooked Asparagus] [F489] Asparagopsis armata]

Seaweed, Japanese Sargassum muticum

[F489] Seaweeds, Laver (except native species)] [F489] Porphyra spp except -]

[F489 p. amethystea]

[F489p. leucosticta]

[F489p. linearis]

[F489p. miniata]

[F489p. purpurea]

[F489p. umbilicalis]

[F488Shallon Gaultheria shallon]

[F489Wakame] [F489Undaria pinnatifida]

[F488Waterweed, Curly Lagarosiphon major]

#### **Textual Amendments**

F488 Sch. 9 Pt. II: entries in table added (S.) (30.6.2005) by The Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005 (S.S.I. 2005/308), art. 2

**F489** Words in Sch. 9 Pt. II added (17.3.1992) by S.I. 1992/320, art. 3

Note. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

# X20 SCHEDULE 10

Section 15

## AMENDMENT OF THE ENDANGERED SPECIES (IMPORT AND EXPORT) ACT 1976

#### **Editorial Information**

**X20** The text of Sch. 7 paras. 3-12 and Sch. 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### PART I

#### THE AMENDMENTS

#### Licences

- 1 (1) After subsection (3) of section 1 of the 1976 Act (restriction on importation and exportation of certain animals and plants) there shall be inserted the following subsections—
  - "(3A) Subsection (3) above shall not apply in relation to an application of any description if the scientific authority concerned has advised the Secretary of State as to whether licences should be issued in pursuance of applications of that description and, if so, their terms.
  - (3B) Where the Secretary of State is satisfied that the issue of a licence authorising the importation or exportation of any item which—
    - (a) is part of or derives from or is made wholly or partly from an animal of any of the kinds to which Schedule 1 or a plant of any of the kinds to which Schedule 2 to this Act for the time being applies; but
    - (b) is not an item to which Schedule 3 to this Act for the time being applies.

would facilitate the importation or exportation of that item, he may, if he considers it expedient to do so, issue such a licence."

- (2) In subsections (4), (5), (6) and (7) of that section after the words "subsection (2)" there shall be inserted the words "or (3B)".
- (3) In subsection (4) of that section after paragraph (a) there shall be inserted the following paragraphs—
  - "(aa) may be issued either to all persons, to persons of a class or to a particular person;
  - (ab) may be subject to compliance with any specified conditions,"; and in paragraph (c) of that subsection for the words from "a period" to "shorter" there shall be substituted the word "such".

Expenses of returning animals and plants to the wild

2 After subsection (8) of section 1 of the 1976 Act there shall be inserted the following subsection—

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- "(9) Where, in the case of a live animal or a plant of any kind which is condemned or deemed to be condemned as forfeited, the Commissioners of Customs and Excise incur any expenses in connection with, or with a view to
  - its return to the wild; or
  - its being kept at premises (whether within or outside the United Kingdom) which are suitable for the keeping of animals or plants of that kind,

those expenses may be recovered, as a debt due to the Crown, from the importer or intending exporter of the animal or plant or any person possessing or having control of it at the time of its seizure.

In this subsection expressions which are also used in the Customs and Excise Management Act 1979 have the same meanings as in that Act."

## Powers of entry

- 3 After the subsection inserted by paragraph 2 as subsection (9) of section 1 of the 1976 Act there shall be inserted the following subsections—
  - "(10) Any person duly authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is so authorised, enter any premises where animals of any of the kinds to which Schedule 1 or plants of any of the kinds to which Schedule 2 to this Act for the time being applies are kept (whether temporarily or permanently) in order to ascertain whether any of the animals or plants kept there have been imported contrary to this section.
  - (11) Any person who wilfully obstructs a person acting under subsection (10) above shall be liable on summary conviction to a fine not exceeding £200."

### Power to modify Schedules

- (1) In paragraph (c) of section 3 of the 1976 Act (power to modify Schedules) after the word "conservation" there shall be inserted the words "in any area" and after the word "endangered" there shall be inserted the word "there".
  - (2) After paragraph (d) of that section there shall be inserted the following paragraph—
    - "(dd) to restrict the importation of animals or plants of any kind which appear to the Secretary of State to be unlikely to survive for any appreciable time if they are kept in the United Kingdom;".

#### Sale of certain animals or plants or their derivatives

- 5 (1) In subsection (1) of section 4 of the 1976 Act (offences to sell etc. things imported contrary to section 1 or their derivatives) for the words "Subject to subsection (2)" there shall be substituted the words "Subject to subsections (1B) and (2)", after the words "has in his possession" there shall be inserted the words "or transports" and the words "and in the following provisions" onwards shall be omitted.
  - (2) After that subsection there shall be inserted the following subsections—

- "(1A) Subject to subsections (1B) and (2) below, a person who sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale—
  - (a) a live or dead animal of any of the kinds to which Schedule 4 to this Act for the time being applies or an egg or other immature stage of such an animal;
  - (b) a live or dead plant of any of the kinds to which Schedule 5 to this Act for the time being applies; or
  - (c) any part of or anything which derives from or is made wholly or partly from anything referred to in paragraph (a) or (b) above,

shall be guilty of an offence; but nothing in this subsection shall apply in relation to anything falling within subsection (1) above or anything which has been imported, or is a part of or derives from or is made wholly or partly from anything which has been imported, before the passing of the Wildlife and Countryside Act 1981.

- (1B) Subsections (1) and (1A) above do not apply to anything done under and in accordance with the terms of a licence issued by the Secretary of State; and subsections (4) to (7) of section 1 above shall apply in relation to a licence issued under this subsection as they apply in relation to a licence issued under subsection (2) of that section.
- (1C) In the following provisions of this section "restricted article" means anything falling within subsection (1) or (1A) above."
- (3) In subsection (2) of that section after the words "subsection (1)" there shall be inserted the words "or (1A)".
- (4) In subsection (5) of that section after the words "subsection (1)" there shall be inserted the words ", (1A)".
- (5) In subsection (6) of that section after the words "references to" there shall be inserted the word "hire".
- (6) After Schedule 3 to the 1976 Act there shall be inserted as Schedule 4 the Schedule set out in Part II of this Schedule.
- (7) After the Schedule inserted in the 1976 Act by sub-paragraph (6) there shall be inserted as Schedule 5 the Schedule set out in Part III of this Schedule.

## PART II

SCHEDULE INSERTED AS SCHEDULE 4

#### **SCHEDULE 4**

ANIMALS THE SALE ETC. OF WHICH IS RESTRICTED

This Schedule applies to the following kinds of animals, namely—

SCHEDULE 10 – Amendment of the Endangered Species (Import and Export) Act 1976

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#### **MAMMALS**

The kinds of mammal specified in the first column below—

## Marsupials

Kind Common name Bettongia Rat kangaroo Caloprymnus campestris Desert rat-kangaroo Lagorchestes hirsutus Western hare-wallaby Lagostrophus fasciatus Banded hare-wallaby Onychogalea fraenata Bridle nail-tailed wallaby Onychogalea lunata Crescent nail-tailed wallaby Lasiorhinus krefftii Queensland hairy-nosed wombat Chaeropus ecaudatus Pig-footed bandicoot Macrotis lagotis Rabbit-bandicoot Macrotis leucara Lesser rabbit-bandicoot Perameles bougainville Western barred bandicoot Sminthopsis longicaudata Long-tailed dunnart Sandhill dunnart Sminthopsis psammophila Tasmanian wolf Thylacinus cynocephalus

## Primates

Allocebus Hairy-eared dwarf lemur

Dwarf lemurs Cheirogaleus Hapalemur Gentle lemurs

Lemur Lemurs

Lepilemur Sportive and weasel lemurs

Microcebus Mouse lemurs

Phaner Fork-marked mouse lemurs

Avahi Avahis (otherwise known as Woolly indris)

Indri **Indris Propithecus** Sifakas Daubentonia madagascariensis Aye-aye

Callimico goeldii Goeldi's marmoset (otherwise known as

Goeldi's tamarin)

Callithrix aurita White eared marmoset

Callithrix flaviceps Buff-headed marmoset

Leontopithecus Maned tamarin (otherwise known as Golden

tamarin)

Saguinus bicolor Pied tamarin

Saguinus geoffroyi Geoffroy's tamarin
Saguinus leucopus White-footed tamarin
Saguinus oedipus Cotton-headed tamarin

Alouatta palliata (otherwise known as

Alouatta villosa)

Mantled howler

Ateles geoffroyi frontatus Black-browed spider monkey

Ateles geoffroyi panamensis Red spider monkey
Brachyteles arachnoides Woolly spider monkey

Cacajao Uakaris

Chiropotes albinasus White-nosed saki

Saimiri oerstedii Red-backed squirrel monkey

Cercocebus galeritus galeritus Tana River mangabey

Cercopithecus diana Diana monkey

Colobus badius kirkii Kirk's red colobus (otherwise known as

Zanzibar red colobus)

Colobus badius rufomitratus

Macaca silenus

Nasalis larvatus

Tana River red colobus

Lion-tailed macaque

Proboscis monkey

Papio leucophaeus (otherwise known as

Mandrillus leucophaeus)

Drill

Papio sphinx (otherwise known as

Mandrillus sphinx)

Mandrill

Presbytis entellus Langur (otherwise known as Entellus langur

or True langur)

Presbytis geei Golden langur Presbytis pileatus Caped langur

Presbytis potenziani Mentawi leaf monkey

Pygathrix nemaeus Douc langur

Rhinopithecus roxellanae Snub-nosed langur

Simias concolor Mentawi snub-nosed langur

Hybolates Gibbons
Symphalangus syndactylus Siamang
Pongidae Great apes

#### **Edentates**

Pridontes giganteus (otherwise known as Priodontes maximus)

Giant armadillo

## Pangolins

Manis temmincki South African pangolin

## Rabbits and hares

Caprolagus hispidus Assam rabbit (otherwise known as Hispid

hare)

Romerolagus diazi Volcano rabbit

## Rodents

Cynomys mexicanus Mexican prairie marmot Leporillus conditor Australian sticknest rat

Pseudomys fumeus Smoky mouse
Pseudomys praeconis Shark Bay mouse
Xeromys myoides False water rat

Zyzomys pendunculatus Central thick-tailed rat

Chinchilla (except any domestic form of

Chinchilla laniger)

Chinchilla

#### Cetaceans

Lipotes vexillifer Chinese river dolphin

Physter catodon (otherwise known as

Physeter macrocephalus)

Sperm whale

Platanista gangetica Ganges dolphin
Platanista minor Indus river dolpin

Sotalia Humpbacked dolphins
Sousa Humpacked dolphins

Neophocaena phocaenoides Finless porpoise

Phocoena sinus Cochito

Balaena mysticetus Greenland right whale (otherwise known as

Bowhead whale)

Balaenoptera borealis Sei whale Balaenoptera musculus Blue whale

Balaenoptera physalus Common rorqual Eschrichtius Grey whales

Eubalaena Right whales

Megaptera novaeangliae Humpback whale

### Carnivores

Spethos venaticus Bush dog

Vulpes velox hebes Northern kit fox

Helarctos malayanus Sun bear

Selenarctos thibetanus Asiatic black bear
Tremarctos ornatus Spectacled bear
Ursus arctos isabellinus Brown bear

Ursus arctos nelsoni Mexican brown bear
Ursus arctos pruinosus Tibetan brown bear

Aonyx microdon Cameroon clawless otter

Enhydra lutris nereis Southern sea otter

Lutra felina Marine otter

Lutra longicaudis South American otter

Lutra lutra Eurasian otter

Lutra provocax Southern river otter

Mustela nigripes Black-footed ferret

Pteronura brasiliensis Giant otter
Prionodon pardicolor Spotted linsang

Hyaena brunnea Brown hyaena

Acinonyx jubatus Cheetah
Felis bengalensis bengalensis Leopard cat
Felis concolor coryi Florida puma

Felis concolor costaricensis Costa Rica puma

Felis concolor cougar Eastern puma
Felis jacobita Andean cat

Felis rufa escuinapae Mexican bobcat

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Felis marmorata	Marbled cat		
Felis nigripes	Black-footed cat		
Felis pardalis mearnsi	Costa Rica ocelot		
Felis pardalis mitis	Brazilian ocelot		
Felis planiceps	Flat-headed cat		
Felis rubiginosa	Rusty spotted cat		
Felis temmincki	Asiatic golden cat		
Felis tigrina oncilla	Little spotted cat		
Felis wiedii nicaraguae	Nicaraguan margay		
Felis wiedii salvinia	Guatemalan margay		
Felis yagouaroundi cacomitli	Jaguarundi		
Felis yagouaroundi fossata	Jaguarundi		
Felis yagouaroundi panamensis	Jaguarundi		
Felis yagouaroundi tolteca	Jaguarundi		
Neofelis nebulosa	Clouded leopard		
Panthera leo persica	Asiatic lion		
Panthera onca	Jaguar		
Panthera pardus	Leopard		
Panthera tigris	Tiger		
Panthera uncia	Snow leopard		
Se	als		
Arcocephalus townsendi	Guadelupe fur seal		
Monachus	Monk seals		
Elephants			
Elephas maximus	Asian elephant		
Sea-cows			
Dugong dugon	Dugong (otherwise known as Sea-cow)		
Trichechus inunguis	Amazonian manatee		
Trichechus manatus	West Indian manatee		

## Odd-toed ungulates

Equus grevyi Grevy's zebra

Equus hemionus hemionus Mongolian wild ass

Equus hemionus khur Indian wild ass

Equus przewalskii Przewalski's horse

Equus zebra Cape mountain zebra

Tapirus bairdii Central American tapir

Tapirus indicus Malayan tapir (otherwise known as Indian

tapir)

Tapirus pinchaque Mountain tapir (otherwise known as Woolly

tapir)

Rhinocerotidae Rhinoceroses

## Even-toed ungulates

Babyrousa babyrussa
Sus salvanius
Pygmy hog
Vicugna vicugna
Calamian deer
Axis kuhli
Bawean deer
Axis porcinus annamiticus
Thai hog deer
Blastocerus dichotomus
Marsh deer
Cervus duvauceli
Swamp deer

Cervus elaphus hanglu Kashmir stag (otherwise known as Hanglu)

Cervus eldi Brow-antlered deer
Dama mesopotamica Persian fallow deer
Hippocamelus antisiensis Peruvian huemal
Hippocamelus bisulcus Chilean huemal

Moschus moschiferus moschiferus Himalayan musk deer

Ozotoceros bezoarticus Pampas deer Pudu pudu Chilean pudu

Antilocapra americana peninsularis Lower California pronghorn

Antilocapra americana sonoriensis Sonoran pronghorn

Bison bison athabascae Wood bison

Bos gaurus Gaur Bos mutus Wild yak

Bubulas depressicornis Lowland anoa

Bubalus mindorensis Tamaraw

Bubalus quarlesi Mountain anoa

Capra falconeri chiltanensis Markhor
Capra falconeri jerdoni Markhor
Capra falconeri megaceros Markhor
Capricornis sumatraensis Serow

Hippotragus niger variani Giant sable antelope

Nemorhaedua goral Goral Novibos sauveli Koupray

Oryx leucoryx Arabian oryx

Ovis ammon hodgsoni Great Tibetan sheep
Ovis orientalis ophion Cyprian mouflon

Ovis vignei Urial

Pantholops hodgsoni Tibetan antelope Rupicapra rupicapra ornata Abrussi chamois

## **BIRDS**

2 The kinds of bird specified in the first column below—

## Rheas

Pterocnemia pennata	Lesser rhea	
	Tinamous	
Tinamus solitarius	Solitary tinamou	
	Penguins	
Spheniscus humboldti	Humboldt penguin	
	Grebes	
Podilymbus gigas	Atitlan grebe	

### Albatrosses

-	
Diomedea albatrus	Short-tailed albatross
P	Pelican-like birds
Sula abbotti	Abbot's booby
Fregata andrewsi	Christmas Island frigatebird
	Storks
Ciconia ciconia boyciana	Japanese white stork
Geronticus eremita	Bald ibis
Nipponia nippon	Japanese crested ibis
	Waterfowl
Anas aucklandica nesiotis	Campbell Island Flightless teal
Anas laysanensis	Laysan duck
Anas oustaleti	Marianas Island duck (otherwise known as Marianas Mallard)
Branta canadensis leucopareia	Aleutian Canada goose
Branta sandvicensis	Hawaiian goose (otherwise known as Nene)
Cairina scutulata	White winged wood duck
Rhodonessa caryophyllacea	Pink-headed duck

## Diurnal Birds of Prey

Cathartidae	New world vultures
Pandion haliaetus	Osprey
Accipitridae	True hawks
Sagittarius serpentarius	Secretary bird
Falconidae	Falcons

## Gamebirds

Aburria jacutinga	Black-fronted curassow (otherwise known as
	Black-fronted guan)

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Aburria pipile White-headed curassow (otherwise known as

Piping guan)

Catreus wallichii Cheer pheasant Colinus virginianus ridgwayi Masked bobwhite Crax blumenbachii Red-billed curassow Crax mitu Razor-billed curassow

Crossoptilon crossoptilon White Eared-pheasant Crossoptilon mantchuricum Brown Eared-pheasant

Lophophorus impejanus Himalayan monal Lophophorus lhuysii Chinese monal Lophophorus sclateri Sclater's monal Lophura edwardsi Edward's pheasant Lophura imperialis Imperial pheasant Lophura swinhoei Swinhoe's pheasant

Macrocephalon maleo Maleo Fowl Oreophasis derbianus Horned guan

Penelope albipennis White-winged guan

Polyplectron emphanum Palawan peacock pheasant

Syrmaticus ellioti Elliot's pheasant

Hume's pheasant (otherwise known as Bar-Syrmaticus humiae

tailed pheasant)

Syrmaticus mikado Mikado pheasant Tetraogallus caspius Caspian snowcock Tetraogallus tibetanus Tibetan snowcock Tragopan blythii Blyth's tragopan Tragopan caboti Cabot's tragopan Tragopan melanocephalus Western tragopan

Tympanuchus cupido attwateri Attwater's prairie chicken

#### Cranes and rails

Grus americana Whooping crane Grus canadensis nesiotes Cuban sandhill crane

Grus canadensis pulla Mississippi sandhill crane

Grus japonensis Manchurian crane (otherwise known as

Japanese crane)

Grus leucogeranus Siberian White crane

Grus monacha Hooded crane

Black-necked crane Grus nigricollis

Grus vipio White-necked crane (otherwise known as

White-naped crane)

Tricholimnas sylvestris Lord Howe wood-rail

Rhynochetos jubatus Kagu

Chlamydotis undulata Houbara bustard Great Indian bustard

Choriotis nigriceps (otherwise known as

Ardeotis nigriceps)

Eupodotis bengalensis Bengal florican

Waders and Gulls

Numenius borealis Eskimo curlew

Tringa guttifer Spotted greenshank (otherwise known as

Nordmann's greenshank)

Larus relictus Relict gull

Pigeons and doves

Caloenas nicobarica Nicobar pigeon

Ducula mindorensis Mindoro imperial pigeon

**Parrots** 

Red-necked parrot (otherwise known as Red-Amazona arausiaca

necked amazon)

Amazona barbadensis Yellow-shouldered parrot (otherwise known

as Yellow-shouldered amazon)

Amazona brasiliensis Red-tailed parrot (otherwise known as Red-

tailed amazon)

St. Vincent parrot (otherwise known as St. Amazona guildingii

Vincent amazon)

Amazona imperialis Imperial parrot (otherwise known as Imperial

amazon)

Amazona leucocephala Cuban parrot (otherwise known as Cuban

amazon)

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Amazona pretrei Red-spectacled parrot (otherwise known as

Red-spectacled amazon)

Amazona rhodocorytha(otherwise known as

Amazona dufresniana rhodocorytha)

Red-crowned parrot (otherwise known as

Red-crowned amazon)

Amazona versicolor St Lucia parrot (otherwise known as St Lucia

amazon)

Amazona vinacea Vinaceous parrot (otherwise known as

Vinaceous amazon)

Amazona vittata Puerto Rico parrot (otherwise known as

Puerto Rican amazon)

Anodorhynchus glaucus Glaucous macaw
Anodorhynchus leari Lear's macaw

Aratinga guaruba Golden parakeet (otherwise known as Golden

conure)

Cyanopsitta spixii Spix's macaw

Cyanoramphus auriceps forbesi Forbes' parakeet

Cyanoramphus novaezelandiae Red-fronted parakeet

Cyclopsitta diophthalma coxeni (otherwise

known as Opopsitta diophthalma coxeni)

Coxen's fig parrot

Geopsittacus occidentalis Australian night parrot

Neophema chrysogaster Orange-bellied parakeet (otherwise known as

Orange-bellied parrot)

Pezoporus wallicus Ground parrot

Pionopsitta pileata Red-capped parrot (otherwise known as

Pileated parrot)

Psephotus chrysopterygius Golden-shouldered parakeet (otherwise

known as Golden-shouldered parrot or

Hooded parakeet)

Psephotus pulcherrimus Paradise parrot

Psittacula echo (otherwise known as Mauritius parakeet (otherwise known as

Psittacula krameri echo) Mauritius ring-necked parakeet)

Waditids Tillg-liceked parakeet)

Psittacus erithacus princeps Fernando Po grey parrot

Pyrrhura cruentata Blue-throated conure Rhynchopsitta pachyrhyncha Thick-billed parrot

Rhynchopsitta terrisi Maroon-fronted parrot

Strigops habroptilus Kakapo (otherwise known as Owl parrot)

Hummingbirds

Ramphodon dohrnii	Hook-billed hermit		
Trogons			
Pharomachrus mocinno costaricensis	Costa Rican quetzal (otherwise known as Resplendent quetzal)		
Pharomachrus mocinno mocinno	Magnificent quetzal (otherwise known as Resplendent quetzal)		
Owls			
Tytonidae	Barn owls		
Strigidae	Typical owls		
Hornbills			
Buceros bicornis (otherwise known as Buceros homrai	Great pied hornbill		
Rhinoplax vigil	Helmeted hornbill		
Woodpeckers			
Campephilus imperialis	Imperial woodpecker		
Dryocopus javensis richardsi	Tristram's woodpecker (otherwise known as White-bellied black woodpecker)		
Songbirds			
Cotinga maculata	Banded cotinga		
Xipholena atropurpurea	White-winged cotinga		
Pitta kochi	Koch's pitta		
Atrichornis clamosa	Noisy scrub-bird		
Leucopsar rothschildi	Rothschild's mynah		
Dasyornis brachypterus longirostris	Western bristlebird		
Dasyornis broadbenti littoralis	Western rufous bristlebird		
Picathartes gymnocephalus	White-necked rockfowl (otherwise known as Yellow-headed rockfowl or Guinea bear-headed rockfowl)		

SCHEDULE 10 – Amendment of the Endangered Species (Import and Export) Act 1976

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Picathartes oreas Grey-necked rockfowl (otherwise known

as Cameroon bare-headed rockfowl or Red-

headed rockfowl)

Zosterops albogularis White-breasted silver-eye

Meliphaga cassidix Helmeted honeyeater

Spinus cucullatus (otherwise known as

Carduelis cucullatus)

Red siskin

### **REPTILES**

The kinds of reptile specified in the first column below—

#### Crocodilians

Alligator sinensis Chinese alligator

Caiman crocodilus apaporiensis Rio Apaporis caiman (otherwise known as

Spectacled caiman)

Caiman latirostris Broad-nosed caiman

Melanosuchus niger Black caiman

Crocodylus acutus American crocodile

Crocodylus cataphractus African slender-snouted crocodile (otherwise

known as African sharp-nosed crocodile)

Crocodylus intermedius Orinoco crocodile
Crocodylus moreletii Morelet's crocodile

Crocodylus niloticus Nile crocodile

Crocodylus novaeguineae mindorensis Philippine crocodile

Crocodylus palustris Mugger (otherwise known as Marsh

crocodile or Broad-snouted crocodile)

Crocodylus porosus Estuarine crocodile (otherwise known as

Salt-water crocodile)

Crocodylus rhombifer Cuban crocodile
Crocodylus siamensis Siamese crocodile

Osteolaemus tetraspis West African dwarf crocodile

Tomistoma schlegelii False gharial (otherwise known as False

gavial)

Gavialis gangeticus Indian gharial (otherwise known as Indian

gavial)

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Iguanas			
Brachylophus	Fijian iguanas		
Cyclura	Caribbean rock iguanas		
Sauromalus varius	San Esteban Island chuck-walla		
Lizards			
Varanus bengalensis	Bengal monitor (otherwise known as Indian monitor or Common monitor)		
Varanus flavescens	Yellow monitor		
Varanus griseus	Desert monitor (otherwise known as Agra monitor or Grey monitor)		
Varanus komodoensis	Komodo dragon		
Snakes			
Acrantophis	Madagascar boas		
Bolyeria	Round island boas		
Casarea	Round island boas		
Epicrates inornatus	Yellow tree boa		
Epicrates subflavus	Jamaican boa		
Python molurus molurus	Indian python (otherwise known as Indian rock python)		
Sanzinia madagascariensis	Madagascar boa		
Tuatara			
Sphenodon punctatus	Tuatara		
Chelonians			
Batagur baska	River terrapin (otherwise known as Tuntong)		
Geoclemys hamiltonii (otherwise known as Damonia hamiltonii)	Black pond turtle (otherwise known as Spotted pond turtle)		
Melanochelys tricarinata (otherwise known as Geoemyda tricarinata or Nicoria tricarinata)	Three-keeled turtle (otherwise known as Three-keeled land tortoise)		

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Indian tent turtle (otherwise known as Indian Kachuga tecta tecta

sawback turtle or Roofed turtle or Dura

turtle)

Morenia ocellata Burmese swamp turtle

Terrapene coahuila Aquatic box turtle (otherwise known as

Water box turtle)

Geochelone elephantopus (otherwise known

as Testudo elephantopus)

Galapagos giant tortoise

Geochelone radiata (otherwise known as

Testudo radiata)

Radiated tortoise (otherwise known as Rayed

tortoise)

Geochelone yniphora (otherwise known as

Testudo yniphora)

Madagascar tortoise (otherwise known as

Rayed tortoise or Angonoka)

Gopherus flavomarginatus (otherwise known as Crophemus polyphemus flavomarginatus)

Psammobates geometricus (otherwise known

as Testudo geometricus)

Geometric tortoise

Mexican gopher tortoise

Sea turtles Cheloniidae

Dermochelys coriacea Leatherback turtle (otherwise known as

Leathery turtle or Luth)

Indian flap-shelled turtle Lissemys punctata punctata

Cuatro Cienegas soft-shell turtle (otherwise Trionyx ater

known as Black soft-shelled turtle)

Trionyx gangeticus Ganges soft-shelled turtle (otherwise known

as Indian soft-shelled turtle)

Trionyx hurum Peacock-marked soft-shelled turtle Dark-coloured soft-shelled turtle Trionyx nigricans

Pseudemydura umbrina Short-necked turtle (otherwise known as

Western swamp turtle)

### **AMPHIBIANS**

The kinds of amphibian specified in the first column below—

Andrias davidianus (otherwise known as

Megalo batrachus davidianus)

Chinese giant salamander

Andrias japonicus (otherwise known as

Megalobatrachus japonicus)

Japanese giant salamander

Atelopus varius zeteki

Golden frog (otherwise known as Zetek's

frog)

Bufo periglenes Golden toad (otherwise known as Orange

toad)

Bufo superciliaris Cameroon toad
Nectophrynoides Viviparous toads

#### **FISH**

5 The kinds of fish specified in the first column below—

Kind	Common name
Acipenser brevirostrum	Shortnose sturgeon
Scleropages formosus	Asiatic bonytongue
Coregonus alpenae	Longjaw cisco
Chasmistes cujus	Cui-ui
Probarbus jullieni	lkan temolek
Pangasianodon gigas	Giant catfish
Stizostedion vitreum glaucum	Blue walleye
Cynoscion macdonaldi	Drum fish

## **MOLLUSCS**

6 The kinds of mollusc specified below—

Conradilla caelata

Dromus dromas

Epioblasma florentina curtisi (otherwise known as Dysnomia florentina curtisi)

Epioblasma florentina florentina (otherwise known as Dysnomia florentina florentina)

Epioblasma sampsoni (otherwise known as Dysnomia sampsoni)

Epioblasma sulcata perobliqua (otherwise known as Dysnomia sulcata perobliqua)

Epioblasma torulosa gubernaculum (Otherwise known as Dysnomia torulosa gubernaculum)

Epioblasma torulosa (otherwise known as Dysnomia torulosa torulosa)

Epioblasma turgidula (otherwise known as Dysnomia turgidula)

Epioblasma walkeri (otherwise known as Dysnomia walkeri)

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Fusconaia cuneolus

Fusconaia edgariana

Lampsilis higginsi

Lampsilis orbiculata orbiculata

Lampsilis satura

Lampsilis verescens

Plethobasus cicatricosus

Plethobasus cooperianus

Pleurobema plenum

Potamilus capax (otherwise known as Proptera capax)

Quadrula intermedia

Quadrula sparsa

Toxolasma cylindrella (otherwise known as Carunculina cylindrella)

Unio nickliniana (otherwise known as Megalonaias nickliniana)

Unio tampicoensis tecomatensis (otherwise known as Lampsilis tampicoensis tecomatensis)

Villosa trabalis (otherwise known as Micromya trabalis)

NOTE. The second column of this Schedule gives a common name or names, where available, and is included by way of guidance only; in the event of any dispute or proceedings, only the first column is to be taken into account.

## PART III

SCHEDULE INSERTED AS SCHEDULE 5

## **SCHEDULE 5**

PLANTS THE SALE ETC. OF WHICH IS RESTRICTED

This Schedule applies to the kinds of plant specified in the second column below—

**Family** Kind

Pachypodium namaquanum Apocynaceae

Araceae Alocasia sanderana

Cactaceae Ariocarpus agavoides

Ariocarpus scapharostrus

Aztekium ritteri

Echinocereus lindsayi Obregonia denegrii

Pelecyphora aselliformis

Pelecyphora strobiliformis

Caryocaraceae Caryocar costaricense

Caryophyllaceae Gymnocarpus przewalskii

Melandrium mongolicus

Silene mongolica

Stellaria pulvinata

Cupressaceae Fitzroya cupressoides

Pilgerodendron uviferum

Cycadaceae Mirocycas calocoma
Gentianaceae Prepusa hookeriana
Humiriaceae Vantanea barbourii

Juglandaceae Engelhardtia pterocarpa

Leguminosae Ammopiptanthus mongolicum

Cynometra hemitomophylla Platymiscium pleiostachyum

Tachigalia versicolor

Liliaceae Aloe albida

Aloe pillansii

Aloe polyphylla

Aloe thorncropftii

Aloe vossii

MelastomataceaeLavoisiera itambanaMeliaceaeGuarea longipetiola

Moraceae Batocarpus costaricensis

Nepenthaceae Nepenthes rajah
Orchidaceae Cattleya skinneri

Cattleya trianae

Didiciea cunninghamii

Laelia jongheana

Laelia lobata

Lycaste virginalis var alba

Peristeria elata

Renanthera imschootiana

Vanda coerulea

Pinaceae Abies guatemalensis

Abies nebrodensis

Podocarpaceae Podocarpus costalis

Podocarpus parlatorei

Proteaceae Orothamnus zeyheri

Protea odorata

Rubiaceae Balmea stormae

Sarracenia ceae Sarracenia alabamensis alabamensis

Sarracenia jonesii

Sarracenia oreophila

Saxifragaceae (otherwise known as

Grossulariaceae)

Ribes sardoum

Stangeria eriopus
Ulmaceae Stangeria eriopus
Celtis aetnensis

Welwitschiaceae Welwitschia bainesii

Zamiaceae Encephalartos

Zingiberaceae Hedychium philippinense

## [F490SCHEDULE 10A

#### DELEGATION OF APPELLATE FUNCTIONS

## **Textual Amendments**

**F490** Sch. 10A inserted (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), Sch. 9 para. 7

## Interpretation

## 1 In this Schedule—

"appointed person" means a person appointed under section 28F(8) or 28L(10); and

"appointment", in the case of any appointed person, means appointment under either of those provisions.

## **Appointments**

- 2 An appointment under section 28F(8) or 28L(10) must be in writing and—
  - (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters of a description so specified;
  - (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment; and
  - (c) may, by notice in writing given to the appointed person, be revoked at any time by the Secretary of State in respect of any appeal or matter which has not been determined by the appointed person before that time.

# Powers of appointed person

- Subject to the provisions of this Schedule, an appointed person shall, in relation to any appeal or matter to which his appointment relates, have the same powers and duties as the Secretary of State, other than—
  - (a) any function of making regulations;
  - (b) any function of holding an inquiry or other hearing or of causing an inquiry or other hearing to be held; or
  - (c) any function of appointing a person for the purpose—
    - (i) of enabling persons to appear before and be heard by the person so appointed, or
    - (ii) of referring any question or matter to that person.

#### Holding of local inquiries and other hearings by appointed persons

- 4 (1) If either of the parties to an appeal or matter expresses a wish to appear before and be heard by the appointed person, the appointed person shall give both of them an opportunity of appearing and being heard.
  - (2) Whether or not a party to an appeal or matter has asked for an opportunity to appear and be heard, the appointed person—
    - (a) may hold a local inquiry or other hearing in connection with the appeal or matter, and
    - (b) shall, if the Secretary of State so directs, hold a local inquiry in connection with the appeal or matter.
  - (3) Where an appointed person holds a local inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the Secretary of State to sit with the appointed person at the inquiry or hearing and advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal or matter.
  - (4) Subject to section 28F(10) or 28L(12), the costs of a local inquiry held under this Schedule shall be defrayed by the Secretary of State.

### Revocation of appointments and making of new appointments

5 (1) Where under paragraph 2(c) the appointment of the appointed person is revoked in respect of any appeal or matter, the Secretary of State shall, unless he proposes to determine the appeal or matter himself, appoint another person under section 28F(8) or 28L(10) to determine the appeal or matter instead.

- (2) Where such a new appointment is made, the consideration of the appeal or matter, or any hearing in connection with it, shall be begun afresh.
- (3) Nothing in sub-paragraph (2) shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

# Certain acts and omissions of appointed persons to be treated as those of the Secretary of State

- 6 (1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the Secretary of State.
  - (2) Sub-paragraph (1) shall not apply—
    - (a) for the purposes of so much of any contract made between the Secretary of State and the appointed person as relates to the exercise of the function; or
    - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.]

#### SCHEDULE 11

Sections 29 and 34.

#### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART II

## Coming into operation

- <sup>1</sup> [F491(1) An original order or a restrictive amending order shall take effect on its being made.
  - (2) It shall be the duty of the Secretary of State to consider every original order or restrictive amending order made by him or a relevant authority, and any such order shall cease to have effect nine months after it is made unless the Secretary of State has previously given notice under paragraph 6 that he has considered it and does not propose to amend or revoke it or he has amended or revoked it or, in the case of an order made by such an authority, the authority has revoked it.
  - (3) An amending or revoking order, other than a restrictive amending order, made by a relevant authority shall be submitted by the authority to the Secretary of State for confirmation and shall not take effect until confirmed by him.
  - (4) Subject to paragraphs 3(1) and 4(4), an amending or revoking order, other than a restrictive amending order, made by the Secretary of State shall not take effect until confirmed by him.
  - (5) An amending or revoking order requiring confirmation shall, by virtue of this subparagraph, stand revoked if the Secretary of State gives notice under paragraph 6 that the order is not to be confirmed.]

#### **Textual Amendments**

F491 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

## Publicity for orders

- [F<sup>492</sup>(1)] Where an order takes effect immediately, the authority making the order (whether the relevant authority or the Secretary of State) shall give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has taken effect;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
  - (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
  - (2) Where an order requires confirmation, the authority making the order shall give notice—
    - (a) setting out the order or describing its general effect and in either case stating that it has been made and requires confirmation; and
    - (b) stating in relation to it the matters specified in sub-paragraph (1)(b) and (c).
  - (3) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) or (2) shall be given—
    - (a) by publication in the Gazette and also at least one local newspaper circulating in the area in which the land to which the order relates is situated;
    - (b) by serving a like notice on every owner and occupier of any of that land; and
    - (c) in the case of a notice given by the Secretary of State, by serving a like notice on the relevant authority in whose area the land to which the order relates is situated.
  - (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b); but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to "The owners and any occupiers" of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.]

## **Textual Amendments**

F492 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

- [F493(1)] Where an order made by a relevant authority takes effect immediately and no representations or objections are duly made in respect of it or any so made are withdrawn,—
  - (a) the Secretary of State shall as soon as practicable after considering it decide either to take no action on the order or to make an order amending or revoking it (subject, however, to paragraph 5); and
  - (b) the amending or revoking order shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.
  - (2) Where an order requiring confirmation is made and no representations or objections are duly made in respect of it or any so made are withdrawn, the Secretary of State may confirm the order (with or without modifications).]

#### **Textual Amendments**

**F493** Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7 para. 4** (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, **art. 2** 

## Opposed orders

- <sup>4</sup> [F494(1)] If any representation or objection duly made with respect to an order is not withdrawn, then, as soon as practicable in the case of an order having immediate effect and before confirming an order requiring confirmation, the Secretary of State shall either—
  - (a) cause a local inquiry to be held; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
  - (2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the Secretary of State—
    - (a) shall, if the order has already taken effect, decide either to take no action on the order or to make an order (subject, however, to paragraph 5) amending or revoking the order as the Secretary of State thinks appropriate in the light of the report, representations or objections, without consulting the relevant authority where that authority made the order; or
    - (b) if the order requires confirmation, may confirm it (with or without modifications).
  - (3) The provisions of subsections (2) to (5) of section 250 of the M50 Local Government Act 1972 or subsections (4) to (8) of section 210 of the M51 Local Government (Scotland) Act 1973 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under this paragraph as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

(4) An amending or revoking order made by virtue of this paragraph shall take effect immediately, but it shall not require confirmation and no representation or objection with respect to it shall be entertained.]

#### **Textual Amendments**

F494 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

#### **Marginal Citations**

**M50** 1972 c. 70. **M51** 1973 c. 65.

Restriction on power to amend orders or confirm them with modifications

5

[<sup>F495</sup>The Secretary of State shall not by virtue of paragraph 3(1) or 4(2) amend an order which has taken effect, or confirm any other order with modifications, so as to extend the area to which an original order applies.]

#### **Textual Amendments**

F495 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

## Notice of final decision on orders

- <sup>6</sup> [F496(1)] The Secretary of State shall as soon as practicable after making an order by virtue of paragraph 3(1) or 4(2) give notice—
  - (a) setting out the order or describing its general effect and in either case stating that it has taken effect; and
  - (b) stating the name of the place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.
  - (2) The Secretary of State shall give notice of any of the following decisions of his as soon as practicable after making the decision—
    - (a) a decision under paragraph 3(1) or 4(2) to take no action on an order which has already taken effect;
    - (b) a decision to confirm or not to confirm an order requiring confirmation under this Schedule.
  - (3) A notice under this paragraph of a decision to confirm an order shall—
    - (a) set out the order as confirmed or describe its general effect, and in either case state the day on which the order took effect;
    - (b) state the name of the place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours.

(4) A notice under this paragraph shall be given by publishing it in accordance with paragraph 2(3) and serving a copy of it on any person on whom a notice was required to be served under paragraph 2(3) or (4).]

#### **Textual Amendments**

F496 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

## Proceedings for questioning validity of orders

- [F<sup>497</sup>(1) This paragraph applies to any order which has taken effect and as to which the Secretary of State has given notice under paragraph 6 of a decision of his to take no action or to amend the order in accordance with paragraph 3 or 4; and in this paragraph "the relevant notice" means any such notice.
  - (2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the ground that it is not within the powers of section [F49829 or] 34, as the case may be, or that any of the requirements of this Schedule have not been complied with in relation to it, he may within six weeks from the date of the relevant notice make an application to the Court under this paragraph.
  - (3) On any such application the Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements—
    - (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
    - (b) in Scotland, make such declarator as seems to the Court to be appropriate.
  - (4) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.
  - (5) In this paragraph "the Court" means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.]

#### **Textual Amendments**

F497 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

F498 Words in Sch. 11 para. 7(2) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. III

### Interpretation

8

[F499]In this Schedule—

"amending order" and "revoking order" mean an order which amends or, as the case may be, revokes a previous order;

"the Gazette" means—

- (a) if the order relates in whole or in part to England and Wales, the London Gazette;
- (b) if the order relates in whole or in part to Scotland, the Edinburgh Gazette:
  - "order" means an order under section [F50029 or] 34;
  - "original order" means an order other than an amending or revoking order;
  - "the relevant authority" has the same meaning as in section 34;
- "restrictive amending order" means an amending order which extends the area to which a previous order applies.]

#### **Textual Amendments**

F499 Sch. 11 (paras. 1-8) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4 (with transitional provisions and savings in Sch. 5 Pt. 2 para. 11); S.S.I. 2004/495, art. 2

F500 Words in Sch. 11 para. 8 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. III

## F501SCHEDULE 12

Section 36.

## PROCEDURE IN CONNECTION WITH ORDERS UNDER SECTION 36

#### **Textual Amendments**

F501 Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3 (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), Sch. 4 para. 5(d) (with s. 162); S.S.I. 2010/230, art. 2(h)

## Consultation

[F502] Before making an order, the Secretary of State shall consult with such person as he may consider appropriate.

#### **Textual Amendments**

1

F502 Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3 (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), Sch. 4 para. 5(d) (with s. 162); S.S.I. 2010/230, art. 2(h)

## Publicity for draft orders

- [F503(1)] Before making an order, the Secretary of State shall prepare a draft of the order and give notice
  - stating that he proposes to make the order and the general effect of it; (a)

- (b) naming a place in the area in which the land to which the draft order relates is situated where a copy of the draft order, and of any byelaws made or proposed to be made by a relevant authority for the protection of the area specified in the draft order, may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
- (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.
- (2) Subject to sub-paragraph (3), the notice to be given under sub-paragraph (1) shall be given—
  - (a) by publication in the Gazette and also at least one local newspaper circulating in the area in which the land to which the draft order relates is situated;
  - (b) by serving a like notice on—
    - (i) every person in whom is vested an interest in or right over any of that land;
    - (ii) every relevant authority whose area includes any of that land; and
    - (iii) such other bodies as may be prescribed or as the Secretary of State may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at council offices in the locality of the land to which the draft order relates; and
    - (ii) at such other places as the Secretary of State may consider appropriate.
- (3) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i).
- (4) Subject to sub-paragraph (3), sub-paragraph (2)(b) and (c) shall be complied with not less than 28 days before the expiration of the time specified in the notice.]

## **Textual Amendments**

**F503** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

## Unopposed orders

3

[F504] If no representations or objections are duly made, or if any so made are withdrawn, the Secretary of State may make the order with or without modifications.]

#### **Textual Amendments**

**F504** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

## Opposed orders

- <sup>4</sup> [F505(1)] If any representation or objection duly made is not withdrawn the Secretary of State shall, before making the order, either—
  - (a) cause a local inquiry to be held; or
  - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.
  - (2) On considering any representations or objections duly made and the report of the person appointed to hold the inquiry or hear representations or objections, the Secretary of State may make the order with or without modifications.]

#### **Textual Amendments**

F505 Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3 (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), Sch. 4 para. 5(d) (with s. 162); S.S.I. 2010/230, art. 2(h)

## Restriction on power to make orders with modifications

- <sup>5</sup> [F506(1)] The Secretary of State shall not make an order with modifications so as—
  - (a) to affect land not affected by the draft order; or
  - (b) to authorise the making of any byelaw not authorised by the draft order, except after complying with the requirements of sub-paragraph (2).
  - (2) The said requirements are that the Secretary of State shall—
    - (a) give such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;
    - (b) hold a local inquiry or afford any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and
    - (c) consider the report of the person appointed to hold the inquiry or to hear representations or objections.]

#### **Textual Amendments**

**F506** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

#### Local inquiries

6 [F507(1) The provisions of subsections (2) to (5) of section 250 of the M52Local Government Act 1972 or subsections (4) to (8) of section 210 of the M53Local Government

(Scotland) Act 1973 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under paragraph 4 or 5 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.

(2) A local inquiry caused to be held under paragraph 4 or 5 before the making of an order may be held concurrently with any local inquiry caused to be held before the confirmation of byelaws made by a relevant authority for the protection of the area specified in the order.]

#### **Textual Amendments**

**F507** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b)**, **Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

#### **Marginal Citations**

M52 1972 c. 70.

M53 1973 c. 65.

## Notice of making of orders

<sup>7</sup> [F508(1)] As soon as practicable after an order is made, the Secretary of State shall give notice—

- (a) describing the general effect of the order as made and stating the date on which it took effect; and
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as made may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours.
- (2) A notice under sub-paragraph (1) shall be given—
  - (a) by publication in the manner required by paragraph 2(2)(a);
  - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 2(2)(b); and
  - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 2(2)(c).]

## **Textual Amendments**

**F508** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

## Proceedings for questioning validity of orders

<sup>8</sup> [F509(1)] If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of section 36 or that any

of the requirements of this Schedule have not been complied with in relation to it, he may within 42 days from the date of publication of the notice under paragraph 7 make an application to the Court under this paragraph.

- (2) On any such application the Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements—
  - (a) in England and Wales, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant; or
  - (b) in Scotland, make such declarator as seems to the Court to be appropriate.
- (3) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatever.
- (4) In this paragraph "the Court" means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.]

#### **Textual Amendments**

**F509** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b), Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

## Supplemental

<sup>9</sup> [F510(1) In this Schedule—

"area" includes district [F511] or Welsh county or county borough];

"council offices" means offices or buildings acquired or provided by a local authority;

"the Gazette" means—

- (a) if the order relates in whole or in part to England and Wales, the London Gazette;
- (b) if the order relates in whole or in part to Scotland, the Edinburgh Gazette;

"order" means an order under section 36;

"prescribed" means prescribed by regulations made by the Secretary of State;

and expressions to which a meaning is assigned by section 36 have the same meanings in this Schedule as in that section.

- (2) References in this Schedule to land include references to any waters covering it; and for the purposes of this Schedule any area in Great Britain which is bounded by tidal waters or parts of the sea shall be taken to include—
  - (a) the waters adjacent to that area up to the seaward limits of territorial waters; and
  - (b) the land covered by the said adjacent waters.
- (3) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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Status: Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective. Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### **Textual Amendments**

**F510** Sch. 12 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W. and otherwise prosp.) by Marine and Coastal Access Act 2009 (c. 23), ss. 146, 321, 324(2)(b)(i)(4), **Sch. 11 para. 2(2)(b)**, **Sch. 22 Pt. 3** (with s. 145, Sch. 12); and Sch. 12 repealed (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), ss. 167, 168(1), **Sch. 4 para. 5(d)** (with s. 162); S.S.I. 2010/230, **art. 2(h)** 

**F511** Words in Sch. 12 para. 9(1) added (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(10)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2** 

## F512F512SCHEDULE 13

#### **Textual Amendments**

**F512** Sch. 13 repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 98, Sch. 12; S.I. 2006/2441, art. 2

#### Status

- 1 The Commission shall be a body corporate.
- The Commission shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or priviledge of the Crown; and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

#### Members

- 3 (1) The Commission shall consist of a chairman and such number of other members as the Secretary of State may determine, of whom one may be appointed to be deputy chairman.
  - (2) The members of the Commission shall be appointed by the Secretary of State and shall hold and vacate office in accordance with such terms as may be prescribed by or under regulations made by the Secretary of State and, on vacating office, shall be eligible for re-appointment.
  - (3) Regulations under sub-paragraph (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (4) A member may at any time by notice in writing to the Secretary of State resign his office.
- 4 (1) The Commission—

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- (a) shall pay to their members such remuneration and allowances (if any) as the Secretary of State may, with the approval of the Minister, determine; and
- (b) as regards any member in whose case the Secretary of State may, with the approval of the Minister, so determine, shall pay such pension to or in respect of him, or make such payments towards the provision of such pension as the Secretary of State may, with the Minister's approval, determine.
- (2) If a person ceases to be a member of the Commission, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may, with the approval of the Minister, require the Commission to pay to that person a sum of such amount as the Secretary of State may, with the Minister's approval, determine.

	Committee for Wales
 5	
	Procedure
6	The procedure (including the quorum) of the Commission shall be such as they may determine.
7	The validity of any proceeding of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.
	Staff
 8	<ul> <li>(1) The Commission shall appoint—</li> <li>(a) with the approval of the Secretary of State, a chief officer and</li> <li>(b) such number of other employees as they may with the approval of the</li> </ul>

- Secretary of State and the Minister determine.
- (2) The Commission shall pay to their employees such remuneration and allowances as they may with the approval of the Secretary of State and the Minister determine.
- (3) In the case of any person to be employed by them on and after the appointed day who immediately before that day was a civil servant, the Commission shall ensure that, so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the coming into force of this Schedule, the terms and conditions of his employment, taken as a whole, are not less favourable than those which he then enjoyed.
- (4) In relation to any person who—
  - (a) is a civil servant before the appointed day; and
  - (b) is as from that day employed by the Commission,

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Chapter I of Part XIV of the Employment Rights Act 1996 shall have effect as if his service as a civil servant had been employment under the Commission.

......

- 9 (1) The Commission shall in the case of such of their employees as they may with the approval of the Secretary of State and the Minister determine,—
  - (a) pay such pension to or in respect of them;
  - (b) make such payments towards the provision of such pensions; or
  - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions,

as they may with the approval of the Secretary of State and the Minister determine.

(2) In this paragraph any reference to the payment of pensions to or in respect of the Commission's employees includes a reference to the payment of pensions by way of compensation to or in respect of any of the Commission's employees who suffer loss of office or employment or loss or diminution of emoluments.

- 10 (1) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) the words "Countryside Commission" shall be inserted after the words "Monopolies Commission".
  - (2) The Commission shall pay to the Minister at such times in each financial year as may be determined by the Minister, subject to any directions of the Treasury, sums of such amounts as he may so determine for the purposes of this paragraph as being equivalent to the increase during the year of such liabilities of his under the Principal Civil Service Pension Scheme as are attributable to the provision of pensions to or in respect of persons who are, or have been, in the service of the Commission in so far as that increase results from the service of those persons during that financial year and to the expense to be incurred in administering those pensions.

## Accounts and report

- 11 (1) The Commission shall keep proper accounts and other records, and shall prepare for each financial year a statement of account in such form as the Secretary of State with the approval of the Treasury may direct and submit those statements of account to the Secretary of State at such time as he may with the approval of the Treasury direct.
  - (2) The Secretary of State shall, as respects each financial year, send the Commission's statement of accounts to the Comptroller and Auditor General not later than the end of November following the year.
  - (3) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts and lay copies of it, together with his report, before each House of Parliament.

The Commission shall furnish the Secretary of State with such returns, accounts and other information with respect to their property and activities or proposed activities as he may from time to time require, and shall afford to the Secretary of State facilities for the verification of information so furnished and for that purpose permit any person authorised in that behalf by the Secretary of State to inspect and make copies of the Commission's accounts, books, documents or papers and give that person such explanation of them as he may reasonably require.

.........

- 13 (1) The Commission shall, as soon as possible after the end of each financial year, make to the Secretary of State a report on the discharge by them of their functions under the 1949 Act, the 1968 Act, the Countryside and Rights of Way Act 2000and this Act during that year.
  - (2) Without prejudice to the generality of sub-paragraph (1), but subject to the provisions of sub-paragraph (3), the report of the Commission for any year shall include—
    - (a) a statement of the action taken by the Commission to promote the enjoyment of the countryside by members of the public who are disabled; and
    - (b) a record of all questions with which the Commission have been concerned during that year and which appear to the Commission to be of general public interest, indicating the purport of any representations or recommendations made by the Commission with respect thereto, and the conclusions (if any) reached thereon.
  - (3) The report of the Commission for any year shall set out any direction given by the Secretary of State during that year under section 3 of the 1949 Act unless the Secretary of State has notified to the Commission his opinion that it is against the interests of national security so to do.
  - (4) The Secretary of State shall lay a copy of every report of the Commission under this paragraph before each House of Parliament.

#### Land

- The Commission, for the purpose of providing themselves with office or other accommodation in connection with the exercise of any of their functions, may, with the approval of the Secretary of State, acquire land, erect and maintain buildings or other structures thereon, and when the land is no longer required for such purpose, dispose of it.
- Any land occupied by the Commission shall, for the purpose of any rate on property, be treated as if it were property occupied by or on behalf of the Crown for public purposes.

#### Interpretation

"appointed day" means the day appointed for the coming into force of this Schedule;

"the Commission" means the Countryside Commission;

"financial year" means the period commencing with the appointed day and ending with 31st March following that day, and each successive period of twelve months:

"the Minister" means [F516the Treasury];

"pension" includes allowance or gratuity.

#### **Textual Amendments**

**F516** Words substituted by S.I. 1981/1670, art. 2(1)(c)(d)(2)

#### SCHEDULE 14

Section 53

#### APPLICATIONS FOR CERTAIN ORDERS UNDER PART III

## Form of applications

- 1 An application shall be made in the prescribed form and shall be accompanied by—
  - (a) a map drawn to the prescribed scale and showing the way or ways to which the application relates; and
  - (b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.

## Notice of applications

- 2 (1) Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates.
  - (2) If, after reasonable inquiry has been made, the authority are satsified that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the description "owner" or "occupier" of the land (describing it) and by affixing it to some conspicuous object or objects on the land.
  - (3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.
  - (4) Every notice or certificate under this paragraph shall be in the prescribed form.

## Determination by authority

- 3 (1) As soon as reasonably practicable after receiving a certificate under paragraph 2(3), the authority shall—
  - (a) investigate the matters stated in the application; and

- (b) after consulting with every local authority whose area includes the land to which the application relates, decide whether to make or not to make the order to which the application relates.
- (2) If the authority have not determined the application within twelve months of their receiving a certificate under paragraph 2(3), then, on the applicant making representations to the Secretary of State, the Secretary of State may, after consulting with the authority, direct the authority to determine the application before the expiration of such period as may be specified in the direction.
- (3) As soon as practicable after determining the application, the authority shall give notice of their decision by serving a copy of it on the applicant and any person on whom notice of the application was required to be served under paragraph 2(1).

## Appeal against a decision not to make an order

- 4 (1) Where the authority decide not to make an order, the applicant may, at any time within 28 days after service on him of notice of the decision, serve notice of appeal against that decision on the Secretary of State and the authority.
  - (2) If on considering the appeal the Secretary of State considers that an order should be made, he shall give to the authority such directions as appear to him necessary for the purpose [F517(which may include a direction as to the time within which an order is to be made)].

#### **Textual Amendments**

**F517** Words in Sch. 14 para. 4(2) inserted (E.W.) (13.2.2004 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 10; S.I. 2004/292, art. 2; S.I. 2005/1314, art. 2(a)

#### Interpretation

5 (1) In this Schedule—

"application" means an application under section 53(5);

"local authority" means [F518] a non-metroplitan district council], a parish F519... council or the parish meeting of a parish not having a separate parish council [F520] but, in relation to Wales, means a community council];

"prescribed" means prescribed by regulations made by the Secretary of State.

(2) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **Textual Amendments**

F518 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(8)

**F519** Words in Sch. 14 para. 5(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(11), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2** 

**F520** Words in Sch. 14 para. 5(1) added (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(11)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2** 

#### **SCHEDULE 15**

Sections 53 and 54.

#### PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART III

#### Consultation

Before making an order, the authority shall consult with every local authority whose area includes the land to which the order relates.

#### Coming into operation

An order shall not take effect until confirmed either by the authority or the Secretary of State under paragraph 6 or by the Secretary of State under paragraph 7.

## Publicity for orders

- 3 (1) On making an order, the authority shall give notice in the prescribed form—
  - (a) describing the general effect of the order and stating that it has been made and requires confirmation;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
  - (c) specifying the time (not being less than 42 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order [F521, which must include particulars of the grounds relied on.] may be made.
  - (2) Subject to sub-paragraph (4), the notice to be given under sub-paragraph (1) shall be given—
    - (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;
    - (b) by serving a like notice on—
      - (i) every owner and occupier of any of that land;
      - (ii) every local authority whose area includes any of that land;
      - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3); and
      - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate; and
    - (c) by causing a copy of the notice to be displayed in a prominent position—
      - (i) at the ends of so much of any way as is affected by the order;
      - (ii) at council offices in the locality of the land to which the order relates; and
      - (iii) at such other places as the authority may consider appropriate.
  - (3) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph "specified" means specified in the requirement.

- (4) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i); but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to "The owners and any occupiers" of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.
- (5) Sub-paragraph (2)(b) and (c) and, where applicable, sub-paragraph (4) shall be complied with not less than 42 days before the expiration of the time specified in the notice.
- (6) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as relates to that land or, as the case may be, the area of that authority; and a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order.
- (7) A notice required to be displayed by sub-paragraph (2)(c) at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.
- (8) At any time after the publication of a notice under this paragraph and before the expiration of the period specified in the notice for the making of representations and objections, any person may require the authority to inform him what documents (if any) were taken into account in preparing the order and—
  - (a) as respects any such documents in the possession of the authority, to permit him to inspect them and take copies; and
  - (b) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected; and on any requirement being made under this sub-paragraph the authority shall comply therewith within 14 days of the making of the requirement.
- (9) Nothing in sub-paragraph [F522(1)(c) or] (8) shall be construed as limiting [F523] the grounds which may be relied on or] the documentary or other evidence which may be adduced at any local inquiry or hearing held under paragraph 7 or 8.

## **Textual Amendments**

- **F521** Words in Sch. 15 para. 3(1)(c) inserted (E.W.) (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(2); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, art. 2(a); S.I. 2005/2459, art. 2(2)(b)(iii)
- **F522** Words in Sch. 15 para. 3(9) inserted (E.W.) (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(3)(a)); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, art. 2(a); S.I. 2005/2459, art. 2(2)(b)(iii)
- **F523** Words in Sch. 15 para. 3(9) inserted (E.W.) (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(3)(b); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I. 2005/1314, art. 2(a); S.I. 2005/2459, art. 2(2)(b)(iii)

Representations or objections made with respect to abandoned surveys or reviews

- 4 (1) This paragraph applies where a survey begun under sections 27 to 32 of the 1949 Act, or a review begun under section 33 of that Act, is abandoned after a draft map and statement have been prepared.
  - (2) If an order modifies the definitive map and statement so as—
    - (a) to show any particulars shown in the draft map and statement but not in the definitive map and statement; or
    - (b) to omit any particulars shown in the definitive map and statement but not in the draft map and statement,

any representation or objection duly made with respect to the showing in or omission from the draft map and statement of those particulars shall be treated for the purposes of paragraphs 6 and 7 as a representation or objection duly made with respect to the corresponding modifications made by the order.

## Severance of orders

- 5 (1) Where at any time representations or objections duly made and not withdrawn relate to some but not all of the modifications made by an order, the authority may, by notice given to the Secretary of State, elect that, for the purposes of the following provisions of this Schedule, the order shall have effect as two separate orders—
  - (a) the one comprising the modifications to which the representations or objections relate; and
  - (b) the other comprising the remaining modifications.
  - (2) Any reference in sub-paragraph (1) to an order includes a reference to any part of an order which, by virtue of one or more previous elections under that sub-paragraph, has effect as a separate order.

## Unopposed orders

- 6 (1) If no representations or objections are duly made, or if any so made are withdrawn, the authority may—
  - (a) confirm the order without modification; or
  - (b) if they require any modification to be made, submit the order to the Secretary of State for confirmation by him.
  - (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State may confirm the order with or without modifications.

## Opposed orders

- 7 (1) If any representation or objection duly made is not withdrawn the authority shall submit the order to the Secretary of State for confirmation by him.
  - (2) Where an order is submitted to the Secretary of State under sub-paragraph (1), the Secretary of State shall [F524, subject to sub-paragraph (2A),] either—
    - (a) cause a local inquiry to be held; or
    - (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.

- [F525(2A)] The Secretary of State may, but need not, act as mentioned in sub-paragraph (2)(a) or (b) if, in his opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order, either with or without modifications.]
  - (3) On considering any representations or objections duly made and the report of [F526] any person appointed to hold an inquiry] or hear representations or objections, the Secretary of State may confirm the order with or without modifications.

Restriction on power to confirm orders with modifications

- 8 (1) The Secretary of State shall not confirm an order with modifications so as—
  - (a) to affect land not affected by the order;
  - (b) not to show any way shown in the order or to show any way not so shown; or
  - (c) to show as a highway of one description a way which is shown in the order as a highway of another description,

except after complying with the requirements of sub-paragraph (2).

- (2) The said requirements are that the Secretary of State shall—
  - (a) give such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal [F527], which must include particulars of the grounds relied on,] may be made;
  - [F528(b)] if any representation or objection duly made is not withdrawn (but subject to sub-paragraph (3)), hold a local inquiry or afford any person by whom any such representation or objection has been made an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and
    - (c) consider the report of any person appointed to hold an inquiry or to hear representations or objections.
- (3) The Secretary of State may, but need not, act as mentioned in sub-paragraph (2)(b) if, in his opinion, no representation or objection which has been duly made and not withdrawn relates to an issue which would be relevant in determining whether or not to confirm the order in accordance with his proposal.
- (4) Sub-paragraph (2)(a) shall not be construed as limiting the grounds which may be relied on at any local inquiry or hearing held under this paragraph.]

## Local inquiries

[F529] The provisions of subsections (2) to (5) of section 250 of the M55 Local Government Act 1972 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply in relation to any inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.]

#### **Textual Amendments**

**F529** Sch. 15 para. 9 omitted (E.W.) (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by virtue of 2000 c. 37, ss. 51, 103(3), Sch. 5

Pt. I para. 11(8) and repealed (6.12.2006 for W. and otherwise prosp.) by 2000 c. 37, ss. 102, 103(3), Sch. 16 Pt. II; S.I. 2004/292, art. 2(d)(iii) (with savings in art. 3(1)); S.I. 2005/1314, art. 2(a)(iii); S.I. 2005/2459, art. 2(2)(b)(iii); S.I. 2006/3257, art. 2

#### **Marginal Citations**

**M55** 1972 c. 70.

## Appointment of inspectors etc.

- 10 (1) A decision of the Secretary of State under paragraph 6, 7 or 8 shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.
  - (2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
  - (3) Where the Secretary of State has appointed a person to make a decision under paragraph 6, 7 or 8 the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
  - (4) Where by virtue of sub-paragraph (2) or (3) a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
  - (5) Regulations under this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

## **I**<sup>F530</sup> Hearings and local inquiries**!**

#### **Textual Amendments**

**F530** Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, **art. 2** (with savings in art. 3(1)); S.I 2005/1314, {art.2(a)}; S.I. 2005/2459, **art. 2(2)(b)(iii)** 

- [F53110A] Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the M56Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) shall apply in relation to any hearing or local inquiry held under paragraph 7 or 8 as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
  - (2) In its application to a hearing or inquiry held under paragraph 7 or 8 by a person appointed under paragraph 10(1), subsection (5) of that section shall have effect as

if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.

(3) Section 322A of the M57Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) shall apply in relation to a hearing or local inquiry under paragraph 7 or 8 as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.]

#### **Textual Amendments**

**F531** Sch. 15 para. 10A and cross-heading inserted (13.2.2004 for E. (exception noted in art. 3(1) of commencement order) and 31.5.2005 for W. and 27.9.2005 otherwise for E.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 11(8); S.I. 2004/292, art. 2 (with savings in art. 3(1)); S.I 2005/1314, {art.2(a)}; S.I. 2005/2459, art. 2(2)(b)(iii)

#### **Marginal Citations**

**M56** 1972 c. 70. **M57** 1990 c. 8.

## Notice of final decisions on orders

- 11 (1) As soon as practicable after a decision to confirm an order is made or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice—
  - (a) describing the general effect of the order as confirmed and stating that it has been confirmed (with or without modification) and the date on which it took effect; and
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours.
  - (2) A notice under sub-paragraph (1) shall be given—
    - (a) by publication in the manner required by paragraph 3(2)(a);
    - (b) by serving a like notice on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4); and
    - (c) by causing like notices to be displayed in the like manner as the notices required to be displayed under paragraph 3(2)(c).
  - (3) A notice required to be served by sub-paragraph (2)(b) on the owner or occupier of any land, or on a local authority, shall be accompanied by a copy of so much of the order as confirmed as relates to that land or, as the case may be, the area of that authority; and, in the case of an order which has been confirmed with modifications, a notice required to be served by that sub-paragraph on such other persons as may be prescribed or as the authority may consider appropriate shall be accompanied by a copy of the order as confirmed.
  - (4) As soon as practicable after a decision not to confirm an order or, in the case of a decision by the Secretary of State, as soon as practicable after receiving notice of his decision, the authority shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 3(2)(b) or (4).

## Proceedings for questioning validity of orders

- 12 (1) If any person is aggrieved by an order which has taken effect and desires to question its validity on the ground that it is not within the powers of section 53 or 54 or that any of the requirements of this Schedule have not been complied with in relation to it, he may within 42 days from the date of publication of the notice under paragraph 11 make an application to the High Court under this paragraph.
  - (2) On any such application the High Court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.
  - (3) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.

## Supplemental

- 13 (1) The Secretary of State may, subject to the provisions of this Schedule, by regulations make such provision as to the procedure on the making, submission and confirmation of orders as appears to him to be expedient.
  - (2) In this Schedule—

"council offices" means offices or buildings acquired or provided by the authority or by a local authority;

"local authority" means [F532 a non-metropolitan district council], a parish F533... council or the parish meeting of a parish not having a separate parish council [F534 but, in relation to Wales, means a community council];

"order" means an order to which the provisions of this Schedule apply;

"prescribed" means prescribed by regulations made by the Secretary of State.

(3) Regulations under this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **Textual Amendments**

- F532 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, Sch. 3 para. 7(8)
- **F533** Words in Sch. 15 para. 13(2) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 65(12), **Sch.** 18 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- **F534** Words in Sch. 15 para. 13(2) added (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(12)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

## X21SCHEDULE 16

Section 63.

## ORDERS CREATING, EXTINGUISHING OR DIVERTING FOOTPATHS OR BRIDLEWAYS

# 

#### **Textual Amendments**

**F535** Sch. 16 paras. 1–4 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), ss. 3, 5, Sch. 1 Pt. I,Sch. 3

## The Highways Act 1980

- (1) In subsection (1) of section 119 of the Highways Act 1980 (diversion of footpaths and bridleways) for the words from the beginning to "or on to land" there shall be substituted the words "Where it appears to a council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or".
  - (2) In subsection (5) of that section for the words "the council may require the owner, lessee or occupier on whose representations they are acting" there shall be substituted the words "on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him".
- 6 (1) In sub-paragraphs (1)(b) and 2(b) of paragraph I of Schedule 6 to that Act (procedure as to certain orders relating to footpaths and bridleways) after the words "free of charge" there shall be inserted the words "and copies thereof may be obtained at a reasonable charge".
  - (2) For sub-paragraph (3) of that paragraph there shall be substituted the following sub-paragraph—
    - "(3) The notices to be given under sub-paragraph (1) or (2) above shall be given—
      - (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;
      - (b) by serving a like notice on—
        - (i) every owner, occupier and lessee (except tenants for a month or any period less than a month and statutory tenants within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977) of any of that land;
        - (ii) every council, the council of every parish or community and the parish meeting of every parish not having a separate parish council, being a council, parish or community whose area includes any of that land;

- (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3A) or (3B) below; and
- (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority or, as the case may be, the Secretary of State may consider appropriate; and
- (c) by causing a copy of the notice to be displayed in a prominent position—
  - (i) at the ends of so much of any footpath or bridleway as is created, stopped up or diverted by the order;
  - (ii) at council offices in the locality of the land to which the order relates; and
  - (iii) at such other places as the authority or, as the case may be, the Secretary of State may consider appropriate."
- (3) After that sub-paragraph there shall be inserted the following sub-paragraphs—
  - "(3A) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such public path creation orders, public path extinguishment orders and public path diversion orders as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph "specified" means specified in the requirement.
  - (3B) Any person may, on payment of such reasonable charge as the Secretary of State may consider appropriate, require the Secretary of State to give him notice of all such draft public path creation orders, draft public path extinguishment orders and draft public path diversion orders as are prepared by the Secretary of State during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph "specified" means specified in the requirement.
  - (3C) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b)(i) above; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to "The owners and any occupiers" of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land."
- (4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraphs—
  - "(4A) Sub-paragraph (3)(b) and (c) and, where applicable, sub-paragraphs (3C) and (4) above shall be complied with not less than 28 days before the expiration of the time specified in the notice.
  - (4B) A notice required to be served by sub-paragraph (3)(b)(i), (ii) or (iv) above shall be accompanied by a copy of the order.
  - (4C) A notice required to be displayed by sub-paragraph (3)(c)(i) above at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.
  - (4D) In sub-paragraph (3)(c)(ii) above "council offices" means offices or buildings acquired or provided by a council or by the council of a

parish or community or the parish meeting of a parish not having a separate parish council."

- 7 After paragraph 2 of that Schedule there shall be inserted the following paragraph—
  - "(2A) (1) A decision of the Secretary of State under paragraph 2 above as respects an order made by an authority other than the Secretary of State shall, except in such classes of case as may for the tim, being be prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.
    - (2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) above and apart from this sub-paragraph, fahs to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
    - (3) Where the Secretary of State has appointed a person to make a decision under paragraph 2 above the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
    - (4) Where by virtue of sub-paragraph (2) or (3) above a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
    - (5) Provision may be made by regulations of the Secretary of State for the giving of publicity to any directions given by the Secretary of State under this paragraph."
- 8 (1) In paragraph 4 of that Schedule after the words "free of charge" there shall be inserted the words "and copies thereof may be obtained at a reasonable charge" and for heads (a) and (b) there shall be substituted the following heads—
  - "(a) serve a like notice on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above; and
  - (b) cause like notices to be displayed in the like manner as the notices caused to be displayed under paragraph 1(3)(c) above;".
  - (2) That paragraph as so amended shall be renumbered as paragraph 4(1) of that Schedule and after that provision as so renumbered there shall be inserted the following sub-paragraphs—
    - "(2) A notice required to be served by sub-paragraph (1)(a) above, on—
      - (a) a person on whom notice was required to be served by paragraph 1(3)(b)(i) or (ii) above, or
      - (b) in the case of an order which has been confirmed or made with modifications, a person on whom notice was required to be served by paragraph 1(3)(b)(iv) above,

shall be accompanied by a copy of the order as confirmed or made.

- (3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the authority by whom the order was made shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above."
- 9 After that paragraph there shall be inserted the following paragraph—
  - "(4A) As soon as may be after an order to which this Schedule applies has come into operation otherwise than—
    - (a) on the date on which it was confirmed or made by the Secretary of State or confinned as an unopposed order; or
    - (b) at the expiration of a specified period beginning with that date, the authority by whom the order was made or, in the case of an order made by the Secretary of State, the Secretary of State shall give notice of its coming into operation by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated."

## Supplemental

- 10 (1) The amendments made by the foregoing provisions of this Schedule shall not apply in relation to any order if it was made or a draft thereof was prepared, or a notice relating to it was given under paragraph 1 of the relevant Schedule, before the commencement date.
  - (2) Any reference in this paragraph to Schedule 6 to the M58 Highways Act 1980 includes a reference to that Schedule as applied by paragraph 3 of the provisions of Part I of Schedule 3 to the 1968 Act which relate to the M59 Acquisition of Land (Authorisation Procedure) Act 1946.

#### **Marginal Citations**

M58 1980 c. 66.

**M59** 1946 c. 49.

## X22SCHEDULE 17

Section 73.

#### ENACTMENTS REPEALED

#### **Editorial Information**

**X22** The text of Sch. 17 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART I

ENACTMENTS REPEALED ONE MONTH AFTER THE PASSING OF THIS ACT

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 97.	The National Parks and Access to the Countryside Act 1949.	Section 23.
1968 c. 41.	The Countryside Act 1968.	Section 14.
		In section 15(1) the words "which is not for the time being managed as a nature reserve but".
1973 c. 37.	The Water Act 1973.	In section 22(3) the words "not being land for the time being managed as a nature reserve".
1973 c. 54.	The Nature Conservancy Council Act 1973.	Section 3.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, in Part II, paragraph 101.
1980 c. 66.	The Highways Act 1980.	In section 134, subsection (3) and in subsection (5) the words "(3) or".
		In section 135(1), the words "6 or" and "6 weeks or".

PART II

ENACTMENTS REPEALED ON A DAY TO BE APPOINTED

Chapter	Short title	Extent of repeal
2 & 3 Geo. 5. c. 14	The Protection of Animals (Scotland) Act 1912.	In section 9 the words "or any snare" and "or snare".
12, 13 & 14 Geo. 6. c. 97.	The National Parks and Access to the Countryside Act 1949.	Sections 2 and 4.
		Sections 27 to 35.
		Section 38.
		Section 95.
2 & 3 Eliz. 2. c. 30.	The Protection of Birds Act 1954.	The whole Act.

1963 c. 33.	The London Government Act 1963.	In section 60, subsections (1) to (4).
1963 c. 36	The Deer Act 1963.	In Schedule 2, in paragraph 1 the words "of less guage than 12 bore" and in paragraph 4 the words from "other than" onwards.
1964 c. 59.	The Protection of Birds Act 1954 (Amendment) Act 1964.	The whole Act.
1967 c. 46.	The Protection of Birds Act 1967.	The whole Act.
1968 c. 41.	The Countryside Act 1968.	In section 1, subsection (4) and, in subsection (5), the words "and 2(1)" and the words "and in section 4(1)" onwards.
		Section 3.
		In Schedule 3, in Part I, the entry relating to the National Parks and Access to the Countryside Act 1949, and Parts II, III and IV.
1970 c. 30.	The Conservation of Seals Act 1970.	In section 10(1)(c), the word "or" immediately following sub-paragraph (ii).
1971 c. 23.	The Courts Act 1971.	In Schedule 8, paragraph 31.
		In Schedule 9, in Part II, the entry relating to section 31 of the National Parks and Access to the Countryside Act 1949.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 20, in paragraph 1(2)(a), the words "in the London Gazette and".
1972 c. 70.	The Local Government Act 1972.	In Schedule 17, paragraphs 22 to 33.
		In Schedule 29, paragraph 37.
1973 c. 37.	The Water Act 1973.	In Schedule 8, paragraph 67.
1973 c. 54.	The Nature Conservancy Council Act 1973.	In section 5(3) the words from the beginning to "save as aforesaid".
1973 c. 57.	The Badgers Act 1973.	Sections 6 and 7.
		Section 8(2)(c).

		In section 11, the definitions of "area of special protection" and "authorised person".
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, in Part II, paragraphs 115 and 168.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7C, the entries relating to the Protection of Birds Act 1954 and the Conservation of Wild Creatures and Wild Plants Act 1975.
1975 c. 48.	The Conservation of Wild Creatures and Wild Plants Act 1975.	The whole Act.
1976 c. 16.	The Statute Law (Repeals) Act 1976.	In Schedule 2, in Part II, the entry relating to the Protection of Birds Act 1967.
1976 c. 72.	The Endangered Species (Import and Export) Act 1976.	Section 13(6).
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entries relating to the Protection of Birds Act 1954 and the Conservation of Wild Creatures and Wild Plants Act 1975.
1979 c. 2.	The Customs and Excise Management Act 1979.	In Schedule 4, in paragraph 12, in the Table the entry relating to the Protection of Birds Act 1954.
1980 c. 66.	The Highways Act 1980.	In section 31(10) the words "or of that subsection" onwards.
		Section 340(2)(d).
1981 c. 22.	The Animal Health Act 1981.	In Schedule 5, paragraph 1.
1981 c. 37.	The Zoo Licensing Act 1981.	In section 4(5), the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975.

## **Status:**

Point in time view as at 22/04/2011. This version of this Act contains provisions that are prospective.

## **Changes to legislation:**

Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.