



Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Protection of birds

1 Protection of wild birds, their nests and eggs.

- (1) Subject to the provisions of this Part, if any person intentionally—
 - (a) kills, injures or takes any wild bird;
 - (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 killed or taken otherwise than in contravention of the relevant provisions; or
 - (b) the bird, egg 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 orders made under it and, in the case of a bird or other thing falling within subsection (2)(a), the provisions of the Protection of Birds Acts 1954 to 1967 and of orders made under those Acts.

Status: Point in time view as at 01/02/1991.

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- (4) Any person convicted of an offence under subsection (1) or (2) in respect of—
- (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird;
 - (b) the nest of such a bird; or
 - (c) an egg of such a bird or any part of such an egg,
- shall be liable to a special penalty.
- (5) Subject to the provisions of this Part, if any person intentionally—
- (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 and liable to a special penalty.
- (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.

2 Exceptions to s. 1.

- (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.

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- (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.

Modifications etc. (not altering text)

C1 S.2(6): Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

3 Areas of special protection.

- (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, the offender shall be liable to a special penalty.
- (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.

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- (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 district 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.

4 Exceptions to ss. 1 and 3.

- (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 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, or fisheries.

Marginal Citations

M1 1947 c. 48.

M2 1948 c. 45.

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M3 1981 c. 22.

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

- (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; or
 - (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,he shall be guilty of an offence and be liable to a special penalty.
- (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.
- (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;

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- (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 ^{M4}Protection 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.

Marginal Citations

M4 1954 c. 30.

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

- (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.
- (4) Any person convicted of an offence under this section in respect of—
 - (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird; or
 - (b) an egg of such bird or any part of such an egg,
 shall be liable to a special penalty.
- (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.

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- (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—
- (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—
- (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; 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,
- no account being taken for this purpose of a conviction which has become spent by virtue of the ^{M5}Rehabilitation of Offenders Act 1974.
- (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.

Marginal Citations

M5 1974. c. 53.

7 Registration etc. of certain captive birds.

- (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 and be liable to a special penalty.
- (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.
- (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4—

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- (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; 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.
- (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 ^{M6}Rehabilitation 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.

Marginal Citations

M6 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 and be liable to a special penalty.
- (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—
- (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,

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