



Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Supplemental

16 Power to grant licences

- (1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—
- (a) for scientific 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;
 - (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 or fisheries,
- if it is done under and in accordance with the terms of a licence granted by the appropriate authority.
- (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) and (4), 11(1) and (2) and 13(1) do not apply to anything done—
- (a) for scientific 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 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 live stock, 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) section 14,

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

- (5) Subject to subsection (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.

- (6) A licence under subsection (1), (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 Protection of Animals Act 1911 or section 1(b) of the Protection 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.

- (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.
- (9) In this section " the appropriate authority " means—
- (a) in the case of a licence under paragraph (a), (b) or (c) 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 Nature Conservancy Council;
 - (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 Nature Conservancy Council;
 - (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.
- (10) The agriculture Minister—
- (a) shall from time to time consult with the Nature Conservancy Council as to the exercise of his functions under this section ; and
 - (b) shall not grant a licence of any description unless he has been advised by the Council as to the circumstances in which, in their opinion, licences of that description should be granted.

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 6(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.

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.

19 Enforcement

- (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) arrest that person if he fails to give his name and address to the constable's satisfaction;
 - (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 an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1), enter any land other than a dwelling-house.
- (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for suspecting that—
 - (a) an offence under section 1, 3, 5, 7 or 8 in respect of which this Part or any order made under it provides for a special penalty ; or
 - (b) an offence under section 6, 9, 11(1) or (2), 13 or 14,has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable (with or without other persons) 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.

20 Summary prosecutions

- (1) This section applies to—
 - (a) any offence under section 1(1) or 3(1) involving the killing or taking of any wild bird or the taking of an egg of such a bird ;
 - (b) any offence under section 9(1) involving the killing or taking of any wild animal; and
 - (c) any offence under section 13(1) involving the picking uprooting or destruction of any wild plant.
- (2) Summary proceedings for an offence to which this section applies 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.

21 Penalties, forfeitures etc.

- (1) Subject to subsection (5), a person guilty of an offence under section 1, 3, 5, 6, 7 or 8 shall be liable on summary conviction—
 - (a) in a case where this Part or any order made under it provides that he shall be liable to a special penalty, to a fine not exceeding £1,000 ;
 - (b) in any other case, to a fine not exceeding £200.
- (2) Subject to subsection (5), a person guilty of an offence under section 9 or 11(1) or (2) shall be liable on summary conviction to a fine not exceeding £1,000.
- (3) Subject to subsection (5), a person guilty of an offence under section 11(3), 13 or 17 shall be liable on summary conviction to a fine not exceeding £500.
- (4) A person guilty of an offence under section 14 shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (5) Where an offence to which subsection (1), (2) or (3) 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, 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.

22 Power to vary Schedules

- (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 Schedules 1 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 to him by the Nature Conservancy Council, 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.
- (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.

23 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 Functions of Nature Conservancy Council

- (1) The Nature Conservancy Council may at any time and shall five years after the passing of this Act 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.
- (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 the Council to give that advice.
- (3) The Council shall include any advice so given and the statement accompanying it in the annual report submitted by them to the Secretary of State under paragraph 17 of Schedule 5 to the Nature Conservancy Council Act 1973.
- (4) The functions of the Council 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.

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.

- (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.

- (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.

27 Interpretation of Part I

- (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, the Nature Conservancy Council, a water authority or any other statutory water undertakers, a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966;
 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 Firearms Act 1968;
 - " game bird " means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;
 - " 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 and Wales, a county, district or London borough council and the Greater London Council;
 - (b) in relation to Scotland, a regional, islands or district council;
- " 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 ;
- " 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;
- " water authority ", in relation to Scotland, has the same meaning as in the Water (Scotland) Act 1980 ;
- " 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 kind which is ordinarily resident in or is a visitor to Great Britain in a wild state but does not include poultry or, except in sections 5 and 16, any game bird ;
- " 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.
- (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.
 - (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.