

Up to date as of 31st March 2015.

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 Agency]; to amend the law relating to public rights of way; and for connected purposes

[30th October 1981]

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

NOTES

Amendment

Words “Countryside Agency” in square brackets substituted by virtue of SI 1999/416, art 3.

Date in force: 20 February 1999 (with effect from 1 April 1999): see SI 1999/416, arts 1, 2.

Part I Wildlife

Protection of birds [and prevention of poaching]

NOTES

Amendment

Cross-heading: words “and prevention of poaching” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (2).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

1 Protection of wild birds, their nests and eggs

- (1) Subject to the provisions of this Part, if any person intentionally [or recklessly]—
- (a) kills, injures or takes any wild bird;
 - [(aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;]
 - (b) takes, damages or destroys [, destroys or otherwise interferes with] the nest of any wild bird while that nest is in use or being built;
 - [(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;] 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 [lawfully] killed or taken [at or from a place in Scotland] *otherwise than in contravention of the relevant provisions*; or
- (b) the bird, egg or other thing in his possession or control had been [lawfully] sold [at a place in Scotland] (whether to him or any other person) *otherwise than in contravention of those provisions*; [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,]

...

[(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 and orders made under those Acts,
- (c) any other legislation which implements [the 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, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976, and
- (d) the provisions of the law of any member State (other than the United Kingdom) implementing [the Wild Birds Directive].]

(4) ...

(5) Subject to the provisions of this Part, if any person intentionally [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 . . .

[(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) 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 [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words “or recklessly” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (2)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (aa) inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 47(1), (2).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (1): in para (b) words “or destroys” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (2)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): paras (ba), (bb) inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (2)(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) word “lawfully” in square brackets inserted in relation to England by SI 2004/1487, regs 2, 3(a)(i), 5 and in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 1(a)(i).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Sub-s (3): in para (a) words “at or from a place in Scotland” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (3)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) words “otherwise than in contravention of the relevant provisions” in italics repealed in relation to England by SI 2004/1487, regs 2, 3(a)(ii), 5 and in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 1(a)(ii).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Sub-s (3): in para (a) word “or” in italics repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (3)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (b) word “lawfully” in square brackets inserted in relation to England by SI 2004/1487, regs 2, 3(b)(i), 5 and in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 1(b)(i).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Sub-s (3): in para (b) words “at a place in Scotland” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (3)(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (b) words “otherwise than in contravention of those provisions” in italics repealed in relation to England by SI 2004/1487, regs 2, 3(b)(ii), 5 and in relation to Wales by SI 2004/1733 reg 3(1), Schedule, para 1(b)(ii).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Sub-s (3): para (c) and word “or” immediately preceding it inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (3)(d).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words omitted repealed in relation to England by SI 2004/1487, regs 2, 3(c), 5, in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 1(c) and in relation to Scotland by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (3)(e).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): inserted in relation to England by SI 2004/1487, regs 2, 3(d), 5 and in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 1(d); a corresponding amendment has been made in relation to Scotland by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (4).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): in para (c) words “the Wild Birds Directive” in square brackets substituted by SI 2007/1843, reg 7(1), (2)(a)(i).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (3A): in para (d) words “the Wild Birds Directive” in square brackets substituted by SI 2007/1843, reg 7(1), (2)(a)(ii).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (4): repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (5): words “or recklessly” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 1 and by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (5).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to an offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-ss (5A)–(5C): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 2(1), (6).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-ss (6), (6A): substituted in relation to England and Wales, for sub-s (6) as originally enacted,

by the Natural Environment and Rural Communities Act 2006, s 48(1); a corresponding amendment, substituting a new sub-s (6), has been made in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (3).

Date in force (in relation to England and Wales): 1 October 2006: see SI 2006/2541, art 2.

Date in force (in relation to Scotland): 29 June 2011: see SSI 2011/279, art 2(b).

Sub-s (6A): words “the Wild Birds Directive” in square brackets substituted by SI 2007/1843, reg 7(1), (2)(b).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

2 Exceptions to s 1[: acts by certain persons outside close season]

(1) Subject to the provisions of this section, [where subsection (1A) applies] 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.

[(1A) This subsection applies where—

(a) the person who kills or injures had—

(i) a legal right to kill such a bird; or

(ii) permission, from a person who had a right to give permission, to kill such a bird; or

(b) the person who takes had—

(i) a legal right to take such a bird; or

(ii) permission, from a person who had a right to give permission, to take such a bird.]

(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) [Subsection (1)] shall not apply in Scotland on Sundays or on Christmas Day [in relation to those birds included in Part I of Schedule 2 which are also included in Part IA of that Schedule]; 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.

[(3A) Subject to the provisions of this section, where subsection (3B) applies a person does not commit an offence under section 1 by reason of the taking for the purposes of breeding of—

(a) a partridge or pheasant included in Part I of Schedule 2; or

(b) an egg of such a bird.

(3B) This subsection applies where—

(a) the person who takes does so during the period of 28 days commencing with the first day of the close season for the bird; and

- (b) the person who takes had—
 - (i) a legal right to take such a bird; or
 - (ii) permission, from a person who had a right to give permission, to take such a bird.
- (3C) A person does not commit an offence under section 1 by reason of the taking of a red grouse if—
 - (a) the grouse is taken—
 - (i) for the purpose of preventing the spread of disease; and
 - (ii) with the intention of releasing it from captivity after no more than 12 hours; and
 - (b) the person had—
 - (i) a legal right to take such a grouse; or
 - (ii) permission, from a person who had a right to give permission, to take such a grouse.]
- (4) In *this section and section 1* [section 1, this section and section 6] “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;
 - [(ba) in the case of pheasant, the period in any year commencing with 2nd February and ending with 30th September;
 - (bb) in the case of partridge, the period in any year commencing with 2nd February and ending with 31st 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;
 - [(ca) in the case of black grouse, the period commencing with 11th December in any year and ending with 19th August in the following year;
 - (cb) in the case of ptarmigan and red grouse, the period commencing with 11th December in any year and ending with 11th August in the following year;]
 - (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* [section 1, this section and section 6] 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* [such persons] 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 [as he considers appropriate].

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Section heading: words “: acts by certain persons outside close season” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (1): words “where subsection (1A) applies” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (1A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (2): repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 3(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words “Subsection (1)” in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 3(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words from “in relation to” to “of that Schedule” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(d).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-ss (3A)–(3C): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(e).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (4): words “this section and section 1” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (2)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (4): in para (a) words “capercaillie and” in italics repealed, in relation to Scotland, by SSI 2001/337, reg 2(1), (2).

Date in force: 4 November 2001: see SSI 2001/337, reg 1(1).

Sub-s (4): paras (ba), (bb) inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(f)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (4): paras (ca), (cb) inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(f)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (6): words “this section and section 1” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (2)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (7): words “a person” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(g)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (7): words “as he considers appropriate” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (4)(g)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Transfer of Functions

See further in relation to the transfer of functions under this section to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wild Birds (Special Protection in Severe Weather) (Scotland) Order 2010, SSI 2010/4 (made under sub-s (6)).

Wild Birds (Special Protection in Severe Weather) (Scotland) (No 2) Order 2010, SSI 2010/438 (made under sub-s (6)).

Wild Birds (Special Protection in Severe Weather) (Scotland) (No 3) Order 2010, SSI 2010/470 (made under sub-s (6)).

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 [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) *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 [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 [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.*

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (2).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (1): in para (a) words “or recklessly” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 4(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (c) repealed by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force: this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (1): in para (c) words “the offender shall be liable to a special penalty” repealed and subsequent words in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 2.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 4(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (4): word in square brackets substituted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(1).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Horse Estate (Area of Special Protection) Order 1988, SI 1988/324 (made under sub-s (1)).

Gibraltar Point (Area of Special Protection) Order 1995, SI 1995/2876 (made under sub-s (1)).

4 Exceptions to ss 1 and 3 [Further exceptions to s 1]

(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 Agriculture Act 1947, or by the Secretary of State under section 39 of the Agriculture (Scotland) Act 1948;
- (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the Animal

Health Act 1981; or

- (c) except in the case of a wild bird included in Schedule [ZA1 or] 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* [(“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].

[(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[, fisheries or inland waters].

[(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) [(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 (3)(c) [(3)] as respects any action taken at any time for any purpose mentioned in that *paragraph* [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 (3)(c) [(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.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Section heading: substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (3)(a).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (1): words “or in any order made under section 3” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (3)(b).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (1): in para (c) words “ZA1 or” in square brackets inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 47(1), (4)(a).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (2): words “or any order made under section 3” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (3)(c).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (2): in para (c) words from “if he shows” to the end repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (2).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (3).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words “or any order made under section 3” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (3)(c).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (3): in para (c) words “, fisheries or inland waters” in square brackets substituted by SI 1995/2825, reg 2(1).

Sub-ss (4)–(6): inserted by SI 1995/2825, reg 2(2).

Sub-s (4): reference to “(3)(c)” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (4).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): reference to “(3)(c)” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (5)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): word “paragraph” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (5)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (6): reference to “(3)(c)” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 5(1), (6).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Transfer of Functions

Functions of a Minister of the Crown, so far as exercisable in relation to Wales, transferred to the

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* [likely] 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;
 - (iv) 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; . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird; 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 . . .

(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 exercisable, 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.

[(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 Protection of Birds Act 1954; or*
- (c) the use of a cage-trap or net for the purpose of taking any *game bird* [grouse, mallard, partridge or pheasant included in Part I of Schedule 2] 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in para (a) word “calculated” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 6(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (d) word omitted repealed by the Wildlife and Countryside (Amendment) Act 1991, s 1(2), (3).

Sub-s (1): para (f) and word “; or” immediately preceding it inserted by the Wildlife and Countryside (Amendment) Act 1991, s 1(2), (3).

Sub-s (1): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (4A): inserted by the Wildlife and Countryside (Amendment) Act 1991, s 1(4).

Sub-s (5): paras (a), (b) repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 6(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): in para (c) words “game bird” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (5).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the

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 [other than—
 - (i) a bird included in Part I of Schedule 3 (see also subsection (5));
 - (ii) a bird included in Part 1A of that Schedule to which subsection (1A) applies; or
 - (iii) an egg to which subsection (1B) applies 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.

[(1A) This subsection applies to a bird which—

- (a) was bred in captivity and remained in captivity or a place where it was reared;
- (b) was a wild bird for the purposes of section 1 (see section 1(6)) and was taken by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird outside the close season for the bird; or
- (c) was such a wild bird of the following type and was taken by a person with such right or permission during the period of 28 days which commences with the first day of its close season—
 - (i) a partridge included also in Part I of Schedule 2; or
 - (ii) a pheasant included also in that Part.

(1B) This subsection applies to the following eggs—

- (a) an egg of a bird included in Part IA of Schedule 3 to which subsection (1A) applies; or
- (b) an egg of a bird included in Part IA of Schedule 3 to which that subsection does not apply if the egg was taken—
 - (i) outside the close season for the bird or during the period of 28 days commencing with the first day of its close season; and
 - (ii) by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird.]

(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[, IIA] or III of Schedule 3 [(see also subsections (5B) and (6))], 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.

[(2A) 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 subsections (1)(b) and (2)(b)) 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) . . .

[(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 re-introduction programme.

(5A) “Re-population” and “re-introduction” have the same meaning as in [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.*

[(6) Any reference in this section to any bird included in Part III of Schedule 3 is a reference, during the period commencing with 1st September in any year and ending with 28th February of the following year, to any bird included in that Part.]

(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 [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 Rehabilitation 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) . . .

(10) . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in para (a) words “other than a bird included in Part I of Schedule 3” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(a)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (1): in para (a) words from “other than— (i)” to “such an egg” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(a)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-ss (1A), (1B): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (2): words from “who is not” to “Secretary of State” in italics repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 12, paras 3, 10(6), Sch 16, Pt IV, except in relation to any offence committed prior to the coming into force of the said Sch 12, para 10.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): in para (a) reference to “, IIA” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(c)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (2): in para (a) words “(see also subsections (5B) and (6))” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(c)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (2A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 21(1), (2).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(e).

Sub-s (4): repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-ss (5), (5A), (5B): substituted in relation to England and Wales, for sub-s (5) as originally enacted, by the Natural Environment and Rural Communities Act 2006, s 48(2); corresponding amendments have been made in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(d), (e).

Date in force (in relation to England and Wales): 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Date in force (in relation to Scotland): 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-s (5A): words “the Wild Birds Directive” in square brackets substituted by SI 2007/1843, reg 7(1), (3).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (6): substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (3)(f).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Sub-ss (7), (8), (8A): repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt IV.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (8): paras (a), (b) and words “within five years of his having been convicted of—” immediately preceding them substituted by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 2.

Date in force: this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (8A): inserted by the Birds (Registration Charges) Act 1997, s 1(1).

Sub-ss (9), (10): repealed in relation to England and Wales by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt IV and in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (2).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 2 July 2012: see SSI 2012/175, art 2(1)(d).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wildlife and Countryside (Registration to Sell etc Certain Dead Wild Birds) Regulations 1982, SI 1982/1219 (made under sub-ss (2), (7), (8)).

Wildlife and Countryside (Ringing of Certain Birds) Regulations 1982, SI 1982/1220 (made under sub-s (5)).

Wildlife and Countryside (Registration to Sell etc Certain Dead Wild Birds) (Amendment) Regulations 1991, SI 1991/479 (made under sub-ss (2), (7)).

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 . . .

(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.

[(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 for which a special*

penalty is provided [which 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, [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); . . .
- (b) any other offence involving their ill-treatment,] [or
- (c) any offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (SI 1997/1372) relating to birds (other than an offence under Regulation 9 of those Regulations),]

he shall be guilty of an offence.

[(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 [ZA1 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 [ZA1 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

[(ca) any offence under subsection (1);]

(d) any offence under section 8.]

(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, [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 Rehabilitation of Offenders Act 1974.

[(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 shall be guilty of an offence.]

(6) . . .

(7) . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (2A): inserted by the Birds (Registration Charges) Act 1997, s 1(2).

Sub-s (3): paras (a), (b) substituted, by subsequent paras (a), (b) and words “within five years of his having been convicted of—” immediately preceding them, by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 2.

Date in force: this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (3): in para (a) words “for which a special penalty is provided” repealed and subsequent words in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 4(1).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (3): in para (a) (as substituted by the Criminal Justice (Scotland) Act 2003) word omitted repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 7(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): para (c) and word “or” immediately preceding it inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 7(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 4(2).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (3A): in paras (a)(i), (c)(i) words “ZA1 or” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 47(1), (4)(b).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (3A): para (ca) inserted by the Natural Environment and Rural Communities Act 2006, s 49.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (4): paras (a), (b) substituted, by subsequent words in square brackets, by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 3.

Date in force: this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (5A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 21(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(e).

Sub-ss (6), (7): repealed in relation to England and Wales by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt IV and in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (3).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 2 July 2012: see SSI 2012/175, art 2(1)(d).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

UK

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982, SI 1982/1221 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1991, SI 1991/478 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1994, SI 1994/1152 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (England) (Amendment) Regulations 2004, SI 2004/640 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) (England) Regulations 2008, SI 2008/2357 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2011, SI 2011/1653 (made under sub-ss (1), (2)).

Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (England) Regulations 2015, SI 2015/618 (made under sub-ss (1), (2)).

Scotland

Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Scotland) Regulations 2009, SSI 2009/419 (made under sub-ss (1), (2)).

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 . . .

(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,

shall be guilty of an offence . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed prior to that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (3): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 86, Sch 5.

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Protection of other animals [and prevention of poaching]

NOTES

Amendment

Cross-heading: words “and prevention of poaching” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (2).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

9 Protection of certain wild animals

(1) Subject to the provisions of this Part, if any person intentionally [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 [at or from a place in Scotland] otherwise than in contravention of the relevant provisions; *or*
- (b) the animal or other thing in his possession or control had been sold [at a place in Scotland] (whether to him or any other person) otherwise than in contravention of those provisions; [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,]

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.

[(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 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 [EU] instrument replacing either of them).]

[(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.]

[(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.

[(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) [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words “or recklessly” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (2).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) words “at or from a place in Scotland” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (3)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) word “or” in italics repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (3)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (b) words “at a place in Scotland” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (3)(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): para (c) and word “or” immediately preceding it inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (3)(d).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words from “and in this subsection” to the end repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (3)(e).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (4).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): reference to “EU” in square brackets substituted by SI 2011/1043, art 6(1)(d).

Date in force: 22 April 2011: see SI 2011/1043, art 2; for transitional savings see art 3(3) thereof.

Sub-s (4): substituted by SI 2007/1843, reg 7(1), (4).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (4A): inserted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 5(b); a corresponding amendment has been made by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (6).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (7).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (6): words from “or for an offence” to “subsection (1), (2) or (5)(a)” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 8(1), (8).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

10 Exceptions to s 9

(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 Agriculture Act 1947, or by the Secretary of State under section 39 of the Agriculture (Scotland) Act 1948; or
- (b) anything done under, or in pursuance of an order made under, the Animal 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* [(“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].
- [(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 [conservation body] [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.

[(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.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (3): in para (c) words from “if he shows” to the end repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 9(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 9(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): words “conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 70.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words from “for the area” to “to take place” in square brackets inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(2).

Sub-s (6A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 9(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Transfer of Functions

Functions of a Minister of the Crown, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[10A Protection of wild hares etc]

[(1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 5A in the close season for the animal is guilty of an offence.

(2) In this section, “close season” means—

- (a) in the case of a mountain hare, the period in any year beginning with 1st March and ending with 31st July;
- (b) in the case of a brown hare, the period in any year beginning with 1st February and ending with 30th September.

(3) The Scottish Ministers may by order vary the close season for any wild animal included in Schedule 5A which is specified in the order.

(4) If it appears to the Scottish Ministers expedient that any wild animals included in Schedule 5A should be protected during any period outside the close season for those animals, they may by order declare any period not exceeding 14 days as a period of special protection for those animals.

(5) Before making an order under subsection (4), the Scottish Ministers must consult such persons appearing to them to be representative of persons interested in the killing or taking of animals of the kind proposed to be protected by the order as they consider appropriate.

(6) Where an order is made under subsection (4), this section has effect as if any period of special protection declared by the order forms part of the close season for those animals.

(7) An order under subsection (3) or (4) may be made as respects the whole of Scotland or any part of Scotland specified in the order.

(8) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (2).

Date in force (for the purpose of introducing Sch 5A): 29 June 2011: see SSI 2011/279, art 2(1)(d).

Date in force (for remaining purposes): 1 January 2012: see SSI 2011/433, art 2(1)(b).

[10B Exceptions to s 10A]

[(1) A person is not guilty of an offence under section 10A(1) by reason of the killing of an animal included in Schedule 5A 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.

(2) A person is not guilty of an offence under section 10A(1) by reason of taking any such animal if he shows that—

(a) he had a legal right to take such an animal or permission, from a person who had a right to give permission, to take such an animal; and

(b) the animal—

(i) had been disabled otherwise than by his unlawful act; and

(ii) was taken solely for the purpose of tending it and releasing it when no longer disabled.

(3) An authorised person is not guilty of an offence under section 10A(1) by reason of the killing or injuring of an animal included in Schedule 5A 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.

(4) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action if—

(a) it had become apparent, before the action was taken, that it would prove necessary for the purpose mentioned in that subsection; and

(b) either—

(i) a licence under section 16 authorising the action had not been applied for as soon as reasonably practicable after that fact had become apparent; or

(ii) an application for such a licence had been determined.

(5) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action unless he notified the appropriate authority as soon as reasonably practicable after the action was taken that he had taken it.

(6) In subsection (5), “the appropriate authority” has the same meaning as in section 16(9).

(7) Nothing in section 10A makes unlawful—

- (a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or
- (b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (2).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

11 Prohibition of certain methods of killing or taking wild animals

- (1) Subject to the provisions of this Part, if any person—
 - (a) sets in position [or otherwise uses] 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* [or a snare of any other type specified in an order made by the Scottish Ministers];
 - [(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 *wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid*, [animal] any bow or crossbow or any explosive other than ammunition for a firearm; . . .
 - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever[; 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.

[(1A) For the purposes of subsection (1)(aa), a snare which is 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 includes—

- (a) where the person who sets in position or otherwise uses the snare does so to catch any animal other than a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 13 centimetres;
- (b) where the person who sets in position or otherwise uses the snare does so to catch a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 23 centimetres;
- (c) a snare which is neither—
 - (i) staked to the ground; nor
 - (ii) attached to an object,
 in a manner which will prevent the snare being dragged by an animal caught by it; and
- (d) a snare which is set in a place where an animal caught by the snare is likely to—
 - (i) become fully or partially suspended; or
 - (ii) drown.]

(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 *calculated* [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; . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal; 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 [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.

[(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.

[(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 (1)(b) or (c) [(1)(c)] or (2)(b), (c), (d) or (e) [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.

[(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.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in para (a) words “or otherwise uses” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (2)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (a) words from “which is of” to the end repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (2)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (aa) inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (3).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words from “wild animal any” to “placed as aforesaid,” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (4).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) word omitted repealed by the Wildlife and Countryside (Amendment) Act 1991, s 2(2).

Sub-s (1): para (d) and word “; or” immediately preceding it inserted by the Wildlife and Countryside (Amendment) Act 1991, s 2(2).

Sub-s (1A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (2)(a).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(i).

Sub-s (2): in para (a) word “calculated” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (5).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): in para (d) word omitted repealed by the Wildlife and Countryside (Amendment) Act 1991, s 2(3).

Sub-s (2): para (f) and word “; or” immediately preceding it inserted by the Wildlife and Countryside (Amendment) Act 1991, s 2(3).

Sub-s (3): substituted, by subsequent sub-ss (3), (3A)–(3E), by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (6).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) words “or knowingly causes or permits to be set in position” in square brackets inserted by the Wildlife and Countryside (Amendment) Act 1991, s 2(4).

Sub-ss (3), (3A), (3B), (3D) (as substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (6)): repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (2)(b).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(i).

Sub-s (4A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (7).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): words “(1)(b) or (c)” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 10(1), (8).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): words from “and in any” to “of those paragraphs” in square brackets inserted by the Wildlife and Countryside (Amendment) Act 1991, s 2(5).

Sub-s (7): inserted by the Wildlife and Countryside (Amendment) Act 1991, s 2(6).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Snares (Scotland) Order 2010, SSI 2010/8 (made under sub-ss (3E), (4A)).

[11A Snares: training, identification numbers, tags etc]

[(1) Any person who sets a snare in position must have an identification number (see also subsections (3), (4) and (7) in relation to identification numbers and training).

- (2) Any person who sets in position or otherwise uses a snare must ensure—
- (a) that a tag is fitted on the snare in such a manner that it is not capable of being easily removed from the snare;
 - (b) that there is displayed on the tag (in a manner in which it will remain readable) the identification number of the person who set the snare in position; and
 - (c) where the snare is intended to catch the following types of animal—
 - (i) brown hares or rabbits; or
 - (ii) foxes,

that there is also displayed on the tag (in a manner in which it will remain readable) a statement that it is intended to catch the type of animal in question.

- (3) For the purposes of this section and sections 11D and 11E, the identification number of a person who sets a snare in position is the identification number issued to him by [the] chief constable.

- (4) [The] chief constable—
- (a) on receipt of an appropriate application from any person for an identification number for the purpose of setting snares in position . . . ; and
 - (b) on being satisfied that the applicant has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control,

must grant the application and issue the applicant with an identification number.

- (5) Any person who fails to comply with subsection (1) is guilty of an offence.

- (6) Any person who—

- (a) has an identification number and sets in position or otherwise uses a snare; but
- (b) fails to comply with subsection (2) in any respect,

is guilty of an offence.

- (7) . . .

- (8) The Scottish Ministers may by order make provision as regards—

- (a) when a person has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control;
- (b) how [the] chief constable is to be satisfied that an applicant for an identification number has been so trained;
- (c) the manner in which a tag is to be fitted for the purposes of subsection (2)(a) (including the material from which a tag is to be made);
- (d) the manner in which an identification number is to appear on a tag for the purposes of subsection (2)(b), and in which a statement is to be displayed on a tag for the purposes of subsection (2)(c);
- (e) the form of and manner of making an application for an identification number;

- (f) the determining by the Scottish Ministers, or by [the chief constable] in accordance with the order, of any fee to accompany the application and the charging of any such fee;
 - (g) the issuing of identification numbers under subsection (4);
 - (h) the keeping of records of identification numbers issued, the persons to whom they are issued and the sharing of information from such records;
 - (i) such other matters in relation to training, tags or identification numbers (including the making of an application for, or the issuing of, an identification number) as they consider appropriate.
- (9) In this section—
- “appropriate application” means an application made in accordance with the provisions of an order under subsection (8);
- [“chief constable” means the chief constable of the Police Service of Scotland;]
- ...]

NOTES

Amendment

- Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).
 Date in force (in so far as it relates to sub-s (8): 1 January 2012: see SSI 2011/433, art 2(1)(c)(ii)(aa).
 Date in force (in so far as it relates to sub-ss (4), (9)): 22 November 2012: see SSI 2011/433, art 2(3A)(a) (as amended by SSI 2012/281, art 2(1), (2)).
 Date in force (for remaining purposes): 1 April 2013: see SSI 2011/433, art 2(4) (as amended by SSI 2012/281, art 2(1), (3)).
- Sub-s (3): word “the” in square brackets substituted by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(a).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (4): word “The” in square brackets substituted by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(b)(i).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (4): in para (a) words omitted repealed by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(b)(ii).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (7): repealed by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(c).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (8): in para (b) word “the” in square brackets substituted by SSI 2013/119, Sch 1, Pt 1, para 8(d)(i).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (8): in para (f) words “the chief constable” in square brackets substituted by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(d)(ii).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (9): definition “chief constable” substituted by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(e)(i).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.
- Sub-s (9): definition “chief constable’s police area” (omitted) repealed by SSI 2013/119, art 4, Sch 1, Pt 1, para 8(e)(ii).
 Date in force: 1 April 2013: see SSI 2013/119, art 1.

Subordinate Legislation

- Snares (Training) (Scotland) (No 2) Order 2012, SSI 2012/161 (made under sub-s (8)(a), (i)) .
 Snares (Identification Numbers and Tags) (Scotland) Order 2012, SSI 2012/282 (made under sub-s (8)(b)–(i)).

[11B Snares: duty to inspect etc]

[(1) Any person who sets a snare in position 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, for the following purposes—

- (a) to see whether any animal is caught by the snare; and
- (b) to see whether the snare is free-running.

(2) Any person who while carrying out such an inspection—

- (a) finds an animal caught by the snare must, during the course of the inspection, release or remove the animal (whether it is alive or dead); and
- (b) finds that the snare is not free-running must remove the snare or restore it to a state in which it is free-running.

(3) Subject to the provisions of this Part, any person who—

- (a) without reasonable excuse, contravenes subsection (1); or
- (b) contravenes subsection (2),

is guilty of an offence.

(4) For the purposes of this section, a snare is “free-running” if—

- (a) it is not self-locking;
- (b) it is not capable (whether because of rust, damage or other condition or matter) of locking; and
- (c) subject only to the restriction on such movement created by the stop fitted in accordance with section 11(1A)(a) or (b), the noose of the snare is able at all times freely to become wider or tighten (and is not prevented from doing so whether because of rust, damage or other condition or matter other than the stop).]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(ii)(bb).

[11C Snares: authorisation from landowners etc]

[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,

is guilty of an offence.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(ii)(bb).

[11D Snares: presumption arising from identification number]

[The identification number which appears on a tag fitted on a snare is presumed in any proceedings to be the identification number of the person who set the snare in position.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).

Date in force: 1 April 2013: see SSI 2011/433, art 2(4) (as amended by SSI 2012/281, art 2(1), (3)).

[11E Snares: record keeping]

[(1) Any person who has an identification number must keep a record of the following—

- (a) the location of every snare set in position by the person which remains in position;
- (b) the location of every other snare set in position by the person within the past two years;
- (c) the date on which each snare mentioned in paragraph (a) or (b) was set;
- (d) the date on which each snare mentioned in paragraph (b) was removed;
- (e) in relation to each animal caught in a snare mentioned in paragraph (a) or (b)—
 - (i) the type of animal;
 - (ii) the date it was found;
- (f) such other information as the Scottish Ministers may by order specify.

(2) For the purposes of subsection (1)(a) and (b), the location of a snare is to be recorded—

- (a) by reference to a map; or
- (b) by such other means (for example, by means of a description) capable of readily identifying the location.

(3) Any person who, without reasonable excuse, fails to comply with the duty under subsection (1) is guilty of an offence.

(4) Any person who—

- (a) is requested to produce the record kept under subsection (1) to a constable; and
- (b) fails to do so within 21 days of being so requested,

is guilty of an offence.

(5) Subsection (1) does not apply in relation to any snare set in position by a person before the person is issued with an identification number.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).

Date in force (in so far as it relates to sub-s (1)(f)): 1 January 2012: see SSI 2011/433, art 2(1)(c)(ii)(aa).

Date in force (for remaining purposes): 1 April 2013: see SSI 2011/433, art 2(4) (as amended by SSI 2012/281, art 2(1), (3)).

[11F Snaring: review and report to the Scottish Parliament]

[(1) The Scottish Ministers must carry out, or secure the carrying out by another person of, a review of the operation and effect of—

- (a) section 11 and any orders made under that section (in so far as the section and the orders make provision as regards snaring);
- (b) sections 11A, 11B, 11C, 11D and 11E and any orders made under those sections.

(2) A review must be carried out under subsection (1) no later than—

- (a) 31st December 2016 (“the first review date”);
- (b) the end of the period of 5 years beginning with the first review date; and
- (c) the end of each subsequent period of 5 years.

(3) In carrying out a review under subsection (1), the matters that must be considered include whether in the opinion of the Ministers (or, if the review is being carried out by another person, that person) amendment of this Act or enactment of other legislation is appropriate.

(4) In carrying out a review under subsection (1), the Scottish Ministers (or, if the review is being carried out by another person, that person) must consult such persons and organisations as they consider (or, as the case may be, the other person considers) have an interest in it.

(5) The Scottish Ministers must, as soon as practicable after a review is carried out under subsection (1), lay a report of the review before the Scottish Parliament.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(ii)(bb).

[11G Prevention of poaching: wild hares, rabbits etc]

[(1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 6A is guilty of an offence.

(2) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (3).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

[11H Exceptions to s 11G]

[(1) A person is not guilty of an offence under section 11G(1)—

- (a) by reason of the killing of an animal included in Schedule 6A if he had a legal right, or permission from a person who had a right to give permission, to kill such an animal; or

- (b) by reason of the taking of such an animal if he had a legal right, or permission from a person who had a right to give permission, to take such an animal.

(2) A person is not guilty of an offence under section 11G(1) by reason of the killing of an animal included in Schedule 6A 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.

(3) Nothing in section 11G makes unlawful—

- (a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or
- (b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (3).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

[11I Sale, possession etc of wild hares, rabbits etc killed or taken unlawfully]

[(1) Any person who does any of the following is guilty of an offence—

- (a) has in his possession or control any live or dead wild animal which has been killed or taken in contravention of section 10A or 11G, or any part of or anything derived from such an animal;
- (b) sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale any such animal or any part of or anything derived from such an animal; or
- (c) 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.

(2) A person is not guilty of an offence under subsection (1) in relation to an activity mentioned in that subsection if he shows that he carried out the activity concerned with reasonable excuse.

(3) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 8.

Date in force (for certain purposes): 29 June 2011: see SSI 2011/279, art 2(1)(f).

Date in force (for remaining purposes): 1 January 2012: see SSI 2011/433, art 2(1)(b).

[12YA Relaxation of restriction on night shooting of hares and rabbits]

[Schedule 7, which amends certain Acts prohibiting night shooting of hares and rabbits by occupiers of land etc, has effect.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 11(1), (2).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

12 Protection of certain mammals

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

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 16 February 1982: see SI 1982/44, art 2.

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 11(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

Protection of plants

13 Protection of wild plants

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

(a) intentionally [or recklessly] picks, uproots or destroys[—

(i) any wild plant included in Schedule 8; or

[(ii) any seed or spore attached to any such wild plant; or]

(b) not being an authorised person, intentionally [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 *if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided* [(“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—

(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].

[(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) [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in para (a) words “or recklessly” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (2)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (a)(i) numbered as such by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (2)(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (a)(ii) inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (2)(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words “or recklessly” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (3).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words from “if he shows” to the end repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (4).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (5).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (4): words from “or for an offence” to “in subsection (2)(a)” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 11(1), (6).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Miscellaneous

14 Introduction of new species etc.

(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 [, IA or IB] of Schedule 9 [a hybrid of any animal of that kind],*

he shall be guilty of an offence.

[(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 [—*

- (a)] *included in Part II of Schedule 9 [; or*
- (b) *a hybrid of any plant included in that Part],*

he shall be guilty of an offence.

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

- (a) releases, or allows to escape from captivity, any animal—
 - (i) to a place outwith its native range; or
 - (ii) of a type the Scottish Ministers, by order, specify; or
- (b) otherwise causes any animal outwith the control of any person to be at a place outwith its native range,

is guilty of an offence.

(2) Subject to the provisions of this Part, any person who plants, or otherwise causes to grow, any plant in the wild at a place outwith its native range is guilty of an offence.

(2A) Subsection (1) does not apply to the following animals where those animals are released or allowed to escape from captivity for the purpose of being subsequently killed by shooting—

- (a) common pheasant;
- (b) red-legged partridge.

(2B) The Scottish Ministers may, by order, specify—

- (a) other types of animals to which subsection (1)(a)(i) or (1)(b) does not apply; and
- (b) types of plants to which subsection (2) does not apply.

(2C) The Scottish Ministers may, by order, disapply subsection (1) or (2) in relation to—

- (a) any person specified in the order;
- (b) any conduct undertaken for the purposes of any enactment (including any enactment contained in or made under an Act of the Scottish Parliament) so specified; or
- (c) any conduct authorised by, under or in pursuance of any such enactment.

(2D) An order under subsection (1)(a)(ii), (2B) or (2C) may make different provision for different cases and, in particular, for—

- (a) different types of animal or plant;

- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.]

(3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to *prove* [show] 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) . . .

(6) . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-ss (1), (1A), (2): substituted, by subsequent sub-ss (1), (2), (2A)–(2D), by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (2)(a).

Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(a)(i).

Date in force (for remaining purposes): 2 July 2012: see SSI 2012/175, art 2(1)(a); for transitional provisions and savings see art 3(3), (4) thereof.

Sub-s (1): in para (b) words “included in Part I of Schedule 9” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 12(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words “, IA or IB” in square brackets inserted by the Infrastructure Act 2015, s 25(1), (2).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(c).

Sub-s (1A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 12(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): para (a) numbered as such by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 12(c)(i).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): para (b) and word “; or” immediately preceding it inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 12(c)(ii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): word “prove” in italics repealed and subsequent word in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (2)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(a).

Sub-ss (5), (6): repealed in relation to England and Wales by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt IV and in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (2)(c).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 2 July 2012: see SSI 2012/175, art 2(1)(a).

See Further

See further, in relation to the disapplication of this section, in relation to England and Wales, in respect of any act which is an offence under the Conservation of Habitats and Species Regulations 2010, reg 52: the Conservation of Habitats and Species Regulations 2010, SI 2010/490, reg 52(8).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wildlife and Countryside Act 1981 (Exceptions to section 14) (Scotland) Order 2012, SSI 2012/173 (made under sub-ss (2B), (2D)(a), (b), (e)).

Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements) (Scotland) Order 2012, SSI 2012/174 (made under sub-ss (1)(a)(ii), (2D)(a), (e)).

Wildlife and Countryside Act 1981 (Exceptions to section 14) (Scotland) Amendment Order 2012, SSI 2012/205 (made under sub-ss (2B), (2D)(a), (e)).

Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements) (Scotland) Amendment Order 2012, SSI 2012/206 (made under sub-ss (1)(a)(ii), (2D)(a), (e)).

[14ZA Sale etc of *invasive non-native species* [certain animals and plants included in Schedule 9]]

[(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—

- (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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act

2006, s 50.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Section heading: words “invasive non-native species” in italics repealed and subsequent words in square brackets substituted by the Infrastructure Act 2015, s 25(1), (3).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(c).

Subordinate Legislation

Wildlife and Countryside Act 1981 (Prohibition on Sale etc of Invasive Non-native Plants) (England) Order 2014, SI 2014/538 (made under sub-s (3)(b)).

[14ZB Codes of practice in connection with *invasive non-native species* [species which are non-native or included in Schedule 9]]

[(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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 51.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Section heading: words “invasive non-native species” in italics repealed and subsequent words in square brackets substituted by the Infrastructure Act 2015, s 25(1), (4).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(c).

[14ZC Prohibition on keeping etc of invasive animals or plants]

[(1) Subject to the provisions of this Part, any person who keeps, has in the person’s possession, or has under the person’s control—

- (a) any invasive animal of a type which the Scottish Ministers, by order, specify; or
- (b) any invasive plant of a type so specified,

is guilty of an offence.

(2) An order under subsection (1) may make different provision for different cases and, in particular, for—

- (a) different types of invasive animal or invasive plant;
- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.

(3) Subject to subsection (4), it is a defence to a charge of committing an offence under subsection (1) to show 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 omission of another person, the person charged must not, without leave of the court, be entitled to rely on the defence unless, within a period ending 7 days before the hearing, the person has served on the prosecutor a notice giving such information or assisting in the identification of the other person as was then in the person's possession.

(5) The Scottish Ministers may, in an order under subsection (1), make provision for or in connection with the compensation of persons who, at the time of the coming into force of the order, may no longer keep, have in their possession or have under their control, an animal or plant.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (3).

Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(a)(ii).

Date in force (for remaining purposes): 2 July 2012: see SSI 2012/175, art 2(1)(a).

Subordinate Legislation

Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements)
(Scotland) Order 2012, SSI 2012/174 (made under sub-ss (1)(a), (2)(a)).

Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements)
(Scotland) Amendment Order 2012, SSI 2012/206 (made under sub-ss (1)(a), (2)(a)).

[14A Prohibition on sale etc of *certain* [invasive] 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—*

(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.*

[(1) This section applies to—

(a) any type of invasive animal; or

- (b) any type of invasive plant,

the Scottish Ministers, by order, specify.]

(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.

[(3) An order under subsection (1) may make different provision for different cases and, in particular, for—

- (a) different types of invasive animal or invasive plant;
- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.]]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 13.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Section heading: word “certain” in italics repealed and subsequent word in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (4)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(a).

Sub-s (1): substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (4)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(a).

Sub-s (3): substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (4)(c).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(a).

[14B Guidance: non-native species] [14B Notification of presence of invasive animals or plants etc]

[(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.

[(1) The Scottish Ministers may, by order, make provision about the notification of the presence of—

- (a) invasive animals; or
- (b) invasive plants,

at any specified place outwith their native range where persons are, or become, aware of the presence of such animals or plants.

(2) An order under subsection (1) may make provision for, or in connection with—

- (a) the persons (or types of persons) who must make a notification;
- (b) the circumstances in which a notification must be made;
- (c) the times of the year when a notification must be made;
- (d) the persons to whom a notification must be made;
- (e) the form and method of any notification; and
- (f) the period within which any notification must be made.

(3) An order under subsection (1) may require a person (or type of person) to make a notification only if the Scottish Ministers consider that the person (or that type of person) has or should have knowledge of, or is likely to encounter, the invasive animal or invasive plant to which the order relates.

(4) An order under subsection (1) may make different provision for different cases and, in particular, for—

- (a) different types of invasive animal or invasive plant;
- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.

(5) A person who, without reasonable excuse, fails to make a notification in accordance with the requirements of an order made under subsection (1) is guilty of an offence.]]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 13.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).
Substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 14(1), (5).
Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(a)(iii).
Date in force (for remaining purposes): 2 July 2012: see SSI 2012/175, art 2(1)(a).

Subordinate Legislation

Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements)
(Scotland) Order 2012, SSI 2012/174 (made under sub-ss (1)(a), (2)(a), (b), (d), (f), (4)(a)).

[14C Non-native species etc: code of practice]

[(1) The Scottish Ministers may make a code of practice for the purpose of providing practical guidance in respect of—

- (a) the application of any of sections 14, 14ZC, 14A and 14B;
- (b) the application of any order made under any of those sections;
- (c) species control agreements;
- (d) species control orders;
- (e) licences granted under section 16(4)(c).

(2) A code of practice may, in particular, provide guidance on—

- (a) how Scottish Natural Heritage, the Scottish Environment Protection Agency, the Forestry Commissioners and the Scottish Ministers should co-ordinate the way in which they exercise their respective functions in relation to animals or plants which are outwith their native range;
- (b) which species, sub-species, varieties or races of animal or plant, or hybrids of animals or plants, are considered to be particular types of animals or plants for the purposes of—
 - (i) this section;
 - (ii) section 14, 14ZC, 14A or 14B;
 - (iii) any order made under any of those sections;
 - (iv) species control agreements;
 - (v) species control orders;
 - (vi) the code;
- (c) the native range of any type of animal or plant;
- (d) the circumstances in which any type of animal is considered to be—
 - (i) in captivity; or
 - (ii) under the control or otherwise of a person at a place outwith its native range;
- (e) the circumstances in which a type of plant is considered to be growing in the wild outwith its native range, and conduct that would cause any type of plant to grow in the wild;
- (f) the circumstances in which a type of invasive animal or plant is considered to be kept in a person's possession or under a person's control;

- (g) which types of animals or plants are invasive and the circumstances (if any) in which any such type of animal or plant is not considered to be invasive;
 - (h) best practice (where permitted) for—
 - (i) keeping animals of any type which are invasive or which are kept at a place from which they may not be put outwith the control of any person;
 - (ii) keeping plants of any type which are invasive or which are kept at a place outwith their native range;
 - (iii) releasing animals of any type from captivity; and
 - (iv) planting, or otherwise causing to grow, any type of plant in the wild;
 - (i) best practice for—
 - (i) containing, capturing or killing animals of any type which are outwith the control of any person and which are—
 - (A) at a place outwith their native range; or
 - (B) animals of a type specified in an order made under section 14(1)(a)(ii);
 - (ii) containing, uprooting or destroying plants of any type which are growing in the wild outwith their native range; and
 - (iii) transferring animals or plants of any type which are not permitted to be kept by virtue of section 14ZC into the custody of Scottish Natural Heritage or any other person (and for keeping such animals or plants prior to the transfer);
 - (j) the making and content of species control agreements;
 - (k) the making, content of and enforcement of species control orders.
- (3) The Scottish Ministers may revoke, replace or revise a code of practice.
- (4) The first code of practice, and any replacement code of practice, made under this section—
- (a) requires to be laid before, and approved by resolution of, the Scottish Parliament; and
 - (b) comes into effect on such date after approval under paragraph (a) as is specified in the code.
- (5) Any revision to a code of practice (or revocation of a code of practice which is not being replaced) must—
- (a) be laid before the Scottish Parliament; and
 - (b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Parliament is dissolved or in recess).
- (6) The Scottish Parliament may, before any such revision or revocation comes into effect, resolve that it is not to come into effect.
- (7) The Scottish Ministers must publish a code of practice (or any replacement or revision) made under this section no later than the day before the code (or replacement or revision) is to come into effect.

- (8) Before making, revoking, replacing or revising a code of practice, the Scottish Ministers must consult—
- (a) Scottish Natural Heritage; and
 - (b) any other person appearing to them to have an interest in the code.
- (9) A person's failure to comply with a provision of a code of practice—
- (a) does not of itself render the person liable to proceedings of any sort; but
 - (b) may be taken into account in determining any question in any such proceedings.
- (10) In any proceedings for an offence under section 14, 14ZC, 14A, 14B or 14K—
- (a) failure to comply with a relevant provision of a code of practice may be relied upon as tending to establish liability;
 - (b) compliance with a relevant provision of a code of practice may be relied upon as tending to negative liability.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 15.

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(d).

[14D Power to make species control orders]

- [(1) A relevant body may make an order (a "species control order") in respect of premises where—
- (a) it is satisfied of the presence on the premises of—
 - (i) an invasive animal at a place outwith its native range; or
 - (ii) an invasive plant at a place outwith its native range; and
 - (b) any of subsections (2) to (4) applies.
- (2) This subsection applies where—
- (a) the relevant body has offered to enter into an agreement with the owner or, as the case may be, occupier of the premises to control or eradicate—
 - (i) invasive animals outwith their native range; or
 - (ii) invasive plants outwith their native range,on the premises (referred to in this section as a "species control agreement");
 - (b) 42 days have elapsed since the date of the offer; and
 - (c) the owner or occupier has refused or otherwise failed to enter into the agreement.
- (3) This subsection applies where—
- (a) a person has entered into a species control agreement with the relevant body; and
 - (b) the person has failed to comply with the terms of the agreement.

(4) This subsection applies where the relevant body has failed to ascertain the name or address of any owner or occupier of the premises (having made reasonable efforts to do so) and accordingly has not been able to offer to enter into a species control agreement.

(5) Subsection (4) does not apply unless—

- (a) the relevant body has given notice in accordance with subsection (6) stating that it wishes to offer to enter into a species control agreement;
- (b) 48 hours have passed since the notice was given; and
- (c) no owner or occupier of the premises has identified themselves to the relevant body.

(6) A notice under this subsection must be addressed to “The owners and any occupiers” of the premises (describing it) and a copy of it must be affixed to some conspicuous object on the premises (in so doing the relevant body is to be treated as having provided notice to each owner or occupier whose name and address is unknown).]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14E Emergency species control orders]

[(1) Where a relevant body considers that the making of a species control order is urgently necessary, the relevant body may, despite section 14D(1)(b), make a species control order whether or not any of subsections (2) to (4) of section 14D apply (such an order is referred to in this Part as an “emergency species control order”).

(2) An emergency species control order expires 49 days after it is made.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14F Content of species control orders]

[(1) A species control order must—

- (a) describe the premises to which it relates;
- (b) be accompanied by a map on which the premises to which it relates are delineated;
- (c) specify the type of invasive animal or plant in question;
- (d) specify—
 - (i) any operations which are to be carried out on the premises for the purpose of controlling or eradicating the type of invasive animal or plant in question;
 - (ii) the person who is to carry out the operations; and
 - (iii) how and when the operations are to be carried out;
- (e) specify any operations which must not be carried out on the premises (referred to in this Part

as “excluded operations”);

- (f) specify the date on which the order is to come into effect and the period for which it is to have effect; and
- (g) set out the circumstances in which an appeal may be made under section 14H against either the decision to make the order or the terms of the order.

(2) A species control order—

- (a) may provide for the making of payments by the relevant body making the order;
- (b) other than an emergency species control order, may provide for the making of payments by the owner or occupier of the premises to which the order relates,

to any person in respect of reasonable costs incurred by a person carrying out an operation under the order.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14G Notice of species control orders]

[(1) A relevant body making a species control order must give notice of the making of the order—

- (a) to the owner and any occupier of the premises to which the order relates; and
- (b) where the relevant body is a body other than the Scottish Ministers, to the Scottish Ministers.

(2) Notice must—

- (a) be in writing;
- (b) specify the relevant body’s reasons for making the order;
- (c) attach a copy of the order; and
- (d) where the order is an emergency species control order, state that fact.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14H Appeals in connection with species control orders]

[(1) Any owner or occupier of premises to which a species control order relates may appeal to the sheriff if aggrieved by—

- (a) a decision of a relevant body to make the species control order; or
- (b) the terms of such an order.

(2) An appeal under subsection (1) must be lodged not later than 28 days after the date on which the relevant body gave notice to the appellant of the decision being appealed.

(3) The sheriff may suspend any effect of an emergency species control order pending the determination of an appeal.

(4) The sheriff must determine an appeal under subsection (1) on the merits rather than by way of review and may do so by—

- (a) affirming the order in question;
- (b) directing the relevant body to amend the order in such manner as the sheriff may specify;
- (c) directing the relevant body to revoke the order; or
- (d) making such other order as the sheriff thinks fit.

(5) A decision of the sheriff on appeal is final except on a point of law.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14I Coming into effect of species control orders]

[Unless a species control order specifies a later date under section 14F(1)(f), such an order has effect from—

- (a) in the case where an order is an emergency species control order, the giving of notice in accordance with section 14G;
- (b) in any other case—
 - (i) the expiry of the time limit for appealing against the decision to make the order; or
 - (ii) where such an appeal is made, its withdrawal or final determination.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14J Review of species control orders]

[(1) A relevant body which has made a species control order may, when it thinks fit, review the order prior to its expiry for the purposes of determining whether it should make an order revoking the order.

(2) If, on completion of a review, the relevant body decides that the species control order should be revoked, it may make an order to that effect.

(3) The making of an order to revoke a species control order does not prevent a relevant body subsequently making a species control order in relation to the same premises.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14K Offences in relation to species control orders]

- [(1) Any person who, without reasonable excuse, fails to carry out, in the manner required by a species control order, an operation which the person is required by the order to carry out is guilty of an offence.
- (2) Any person who intentionally obstructs any person from carrying out an operation required to be carried out under a species control order is guilty of an offence.
- (3) Any person who, without reasonable excuse, carries out, or causes or permits to be carried out, any excluded operation is guilty of an offence.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14L Enforcement of operations under species control orders]

- [(1) This section applies where a relevant body considers—
- (a) that any operation required to be carried out by a species control order it has made has not been carried out within the period or by the date specified in it; or
 - (b) that any such operation has been carried out otherwise than in the manner required under the order.
- (2) The relevant body—
- (a) may carry out the operation, or such further work as is necessary to ensure that it is carried out, in the manner required under the order;
 - (b) is not required to make any payment (and may recover any payments made) in pursuance of the species control order in relation to the operation in question; and
 - (c) may recover from the person whom the species control order required to carry out the operation any expenses reasonably incurred by it in doing so (less any payment which the relevant body is required to make in relation to the carrying out of the operation under the order by virtue of section 14F(2)(a)).]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14M Species control orders: powers of entry]

- [(1) A person authorised in writing by a relevant body may enter any premises for any of the following purposes—
- (a) to determine whether or not to offer to enter into a species control agreement with the owner or, as the case may be, occupier of the premises;
 - (b) to determine whether or not to make or revoke a species control order;
 - (c) to serve notice to an owner or occupier of premises in accordance with section 14D(5)(a) or 14G;

- (d) to ascertain whether an offence under section 14K is being, or has been, committed in relation to an order made by the relevant body;
- (e) to carry out an operation or other work in pursuance of section 14L(2)(a).

(2) A person so authorised to enter premises may not demand admission as of right to any land which is occupied unless—

- (a) the entry is for a purpose mentioned in subsection (1)(a) or (b) and at least 24 hours' notice of the intended entry has been given;
- (b) the entry is for a purpose mentioned in subsection (1)(c) or (d); or
- (c) the entry is for a purpose mentioned in subsection (1)(e) and at least 14 days' notice of the intended entry has been given.

(3) Subsection (2) does not apply in relation to entry in connection with an emergency species control order.

(4) Nothing in this section authorises any person to break any lock barring access to premises which the person is authorised to enter.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.
Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14N Species control orders: entry by warrant etc]

[(1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that there are reasonable grounds for a person authorised by a relevant body to enter premises for a purpose mentioned in section 14M(1) and that—

- (a) admission to the premises has been refused;
- (b) such refusal is reasonably apprehended;
- (c) the premises are unoccupied;
- (d) the occupier is temporarily absent from the premises;
- (e) the giving of notice under section 14M(2) would defeat the object of the proposed entry; or
- (f) the situation is one of urgency,

the sheriff or justice may grant a warrant authorising the person to enter premises (including lockfast places), if necessary using reasonable force.

(2) In the cases of a warrant under subsection (1)(a) to (d), a sheriff or justice must not grant a warrant unless satisfied that notice of the intended entry has been given in the manner described in section 14M.

(3) A warrant under this section—

- (a) may be executed without notice; and
- (b) 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.

(4) Any person authorised by a warrant to enter any premises must, if required to do so by the owner or occupier or anyone acting on the owner or occupier's behalf, show that person the warrant.

(5) Any person authorised by a warrant to use reasonable force—

- (a) must be accompanied by a constable when doing so; and
- (b) may not use force against an individual.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14O Species control orders: powers of entry: supplemental]

[(1) Any person who exercises a power of entry to premises in accordance with section 14M or 14N may—

- (a) be accompanied by any other person; and
- (b) take any machinery, other equipment or materials on to the premises,

for the purpose of assisting the person in the exercise of that power.

(2) A power specified in subsection (1) which is exercisable under a warrant is subject to the terms of the warrant.

(3) Any person leaving any premises which have been entered in exercise of a power conferred by section 14M or a warrant granted under section 14N, being either unoccupied premises or premises from which the occupier is temporarily absent, must leave the premises as effectively secured against unauthorised entry as the person found the premises.

(4) A relevant body must compensate any person who has sustained damage by reason of—

- (a) the exercise by a person authorised by the relevant body of any powers of entry conferred on the person by section 14M or a warrant granted under section 14N; or
- (b) the failure of a person so authorised to perform the duty imposed by subsection (3),

unless the damage is attributable to the fault of the person who sustained it.

(5) Any dispute as to a person's entitlement to compensation, or to the amount of such compensation, is to be determined by arbitration.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

[14P Interpretation of sections 14 to 14O]

[(1) This section applies to sections 14 to 14O only.

(2) Any reference to the native range of an animal or plant, or a type of animal or plant, is a reference to the locality to which the animal or plant of that type is indigenous, and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise) by any person.

(3) The native range of a hybrid animal or plant is any locality within the native range of both parents of the hybrid animal or plant.

(4) Any reference to an invasive animal or invasive plant, or type of such an animal or plant, is a reference to an animal or plant of a type which if not under the control of any person, would be likely to have a significant adverse impact on—

- (a) biodiversity;
- (b) other environmental interests; or
- (c) social or economic interests.

(5) Any reference to premises—

- (a) includes reference to land (including lockfast places and other buildings), movable structures, vehicles, vessels, aircraft and other means of transport; but
- (b) does not include reference to dwellings.

(6) Any reference to a relevant body is a reference to—

- (a) the Scottish Ministers;
- (b) Scottish Natural Heritage;
- (c) the Scottish Environment Protection Agency; or
- (d) the Forestry Commissioners.

(7) Any reference to an animal includes a reference to ova, semen and milt of the animal.

(8) “Plant” includes fungi and any reference to a plant includes a reference to—

- (a) bulbs, corms and rhizomes of the plant; and
- (b) notwithstanding section 27(3ZA), seeds and spores of the plant.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 16.

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(b).

15 Endangered species (import and export)

(1) The Endangered 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 [GB 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (2): words “GB conservation bodies” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 71.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[15A 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) Regulation (EU) No 528/2012 of the European Parliament and of the Council].

[(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by subsection (1) shall be guilty of an offence.]

(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.]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 14.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): para (b) substituted by SI 2013/1506, reg 37, Sch 5, Pt 1, para 1.

Date in force: 1 September 2013: see SI 2013/1506, reg 2(1).

Sub-s (2A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 21(1), (4).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(e).

Subordinate Legislation

Possession of Pesticides (Scotland) Order 2005, SSI 2005/66 (made under sub-s (3)).

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, 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;
 - [(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;
 - (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[, fisheries or inland waters],

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

[(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 [does] 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)[, (4) and (4A)], [10A(1),] 11(1) *and* (2) [, (2) and (3C)(a)][, 11C][, 11G(1)] and 13(1) do not apply to anything done—

- (a) for scientific[, 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 [wild birds,] wild animals or wild plants or introducing them to particular areas;

- [(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[; or
- (i) for any other social, economic or environmental purpose],

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

[(3A) The appropriate authority shall not grant a licence under subsection (3)(i) unless it is satisfied—

- (a) that undertaking the conduct authorised by the licence will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and
- (b) that there is no other satisfactory solution.]

(4) The following provisions, namely—

- (a) section 6(1) and (2);
- (b) sections 9(5)[,] and 13(2); and
- (c) [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.

[(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 [subsections (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.

[(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 [(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 7(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.

[(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.]

[(8B) . . .]

[(8C) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to Wales, “the appropriate authority” means the Natural Resources Body for Wales.]

(9) *[Except as provided by [subsections (8A) and (8C)], in this section “the appropriate authority” means—*

- (a) *in the case of a licence under [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 [relevant] [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 [relevant] [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.*

[(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.]*

[(9) In this section “the appropriate authority” means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 16A.

(9ZA) The Scottish Ministers must consult Scottish Natural Heritage before granting or modifying a licence under any of subsections (1) to (5).

(9ZB) Subsection (9ZA) does not apply in relation to licences granted under—

- (a) paragraph (i), (j) or (k) of subsection (1);
- (b) paragraph (f), (g) or (h) of subsection (3); or
- (c) paragraph (c) of subsection (4).]

[(9A) In this section “re-population” and “re-introduction”, in relation to wild birds, have the same meaning as in [the Wild Birds Directive].]

(10) The Agricultural Minister—

- (a) shall from time to time consult with [each of the [GB conservation bodies]] as to the exercise [in the area of that [body]] of his functions under this section; and
- (b) shall not grant a licence of any description unless he has been advised by the [relevant] [conservation body] as to the circumstances in which, in their opinion, licences of that description should be granted.

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

[(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;
- [(c) “Wales” has the meaning given by section 158 of the Government of Wales Act 2006].]

[(13) . . .]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words “and orders under section 3” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (4)(a).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (1): para (a) substituted by SI 1995/2825, reg 3(1), (2)(a).

Sub-s (1): paras (ca), (cb) inserted by SI 1995/2825, reg 3(1), (2)(b).

Sub-s (1): in para (k) words “, fisheries or inland waters” in square brackets substituted by SI 1995/2825, reg 3(1), (2)(c).

Sub-s (1A): inserted by SI 1995/2825, reg 3(1), (3).

Sub-s (2): words “and orders under section 3 do” in italics revoked and subsequent word in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (4)(b).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (2): in para (b) words “or, at any time before 15th April in any year, a lapwing’s egg” in italics repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words “, (4) and (4A)” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 6 and by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(b)(i).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): reference to “10A(1),” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 9(a)(i).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

Sub-s (3): words “and (2)” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(b)(ii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): reference to “, 11C” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (4).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(c)(iii).

Sub-s (3): reference to “, 11G(1)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 9(a)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(g).

Sub-s (3): in para (a) word “, research” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(b)(iii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (c) words “wild birds,” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(b)(iv).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): para (ca) inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(b)(v).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (g) word “or” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(a)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (3): para (i) and word “; or” immediately preceding it inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(a)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (3A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (4): in para (b) reference to “, 11I(1)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 9(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(g).

Sub-s (4): in para (c) words “sections 14 and 14ZA” in square brackets substituted by the Natural

Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (2); a corresponding amendment has been made by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(c).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Date in force (in relation to England and Wales): 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): para (c) (as amended by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(c)) further amended by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (2).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 15(d).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-ss (5), (6): words in square brackets substituted by SI 1995/2825, reg 3(4), (6).

Sub-s (5A): inserted by SI 1995/2825, reg 3(1), (5).

Sub-s (8A): inserted by the Marine and Coastal Access Act 2009, s 10(1), (2).

Date in force: 1 April 2010: see SI 2010/298, art 2, Schedule, Pt 1, para 2; for transitional provisions see the Marine and Coastal Access Act 2009, s 10(5).

Sub-s (8B): inserted by the Marine (Scotland) Act 2010, s 104(1), (2).

Date in force: 1 July 2010: see SSI 2010/230, art 2(b).

Sub-s (8B): repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (8C): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 170(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-ss (9), (9ZA)–(9ZC): substituted, by subsequent sub-ss (9), (9ZA), (9ZB) by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(d).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (9): words in square brackets beginning with the words “Except as provided” inserted by the Marine and Coastal Access Act 2009, s 10(1), (3); a corresponding amendment was made in relation to Scotland by the Marine (Scotland) Act 2010, s 104(1), (3).

Date in force (in relation to England and Wales): 1 April 2010: see SI 2010/298, art 2, Schedule, Pt 1, para 2; for transitional provisions see the Marine and Coastal Access Act 2009, s 10(5).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(b).

Sub-s (9): words “subsections (8A) and (8C)” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 170(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (9): in para (a) words “any of paragraphs (a) to (cb)” in square brackets substituted by SI 1995/2825, reg 3(7).

Sub-s (9): in paras (a), (c) word “relevant” in square brackets inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(4)(a).

Sub-s (9): in paras (a), (c) words “conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-ss (9ZA)–(9ZC): inserted, in relation to Scotland, by the Marine (Scotland) Act 2010, s 104(1), (4).

Date in force: 1 July 2010: see SSI 2010/230, art 2(b).

Sub-s (9A): inserted by SI 1995/2825, reg 3(1), (8).

Sub-s (9A): words “the Wild Birds Directive” in square brackets substituted by SI 2007/1843, reg 7(1), (5).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (10): in para (a) words in square brackets beginning with the words “each of the” substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(4)(b).

Sub-s (10): in para (a) words “GB conservation bodies” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (4)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (10): in para (a) words in square brackets beginning with the words “in the area” substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(4)(b).

Sub-s (10): in para (a) word “body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (4)(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (10): in para (b) word “relevant” in square brackets substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(4)(c).

Sub-s (10): in para (b) words “conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (11): inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(4)(d).

Sub-s (11): words “conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 72(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (12): inserted by the Marine and Coastal Access Act 2009, s 10(1), (4).

Date in force: 1 April 2010: see SI 2010/298, art 2, Schedule, Pt 1, para 2; for transitional provisions see the Marine and Coastal Access Act 2009, s 10(5).

Sub-s (12): para (c) inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 170(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (13): inserted by the Marine (Scotland) Act 2010, s 104(1), (5).

Date in force: 1 July 2010: see SSI 2010/230, art 2(b).

Sub-s (13): repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (2)(e).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Transfer of Functions

See further in relation to the exercise of functions under this section by the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[16A Delegation of licence-granting power: Scotland]

[(1) The Scottish Ministers may delegate their functions in relation to licences under section 16 to—

- (a) Scottish Natural Heritage; or
- (b) a local authority.

(2) But a function may be delegated to a local authority only in so far as it relates to—

- (a) the development of land within the meaning of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (c 8); or
- (b) the demolition of buildings within the meaning of section 55 of the Building (Scotland) Act 2003 (asp 8).

(3) A delegation may be, to any degree, general or specific and may in particular relate to—

- (a) a particular type of bird, other animal or plant;
- (b) a particular licence or type of licence;
- (c) a particular area.

(4) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type that were granted before the delegation.

(5) A delegation to—

- (a) Scottish Natural Heritage under subsection (1)(a) is to be made by written direction;
 - (b) a local authority under subsection (1)(b) is to be made by order.
- (6) A local authority which is delegated a function under subsection (1)(b) must, before granting or modifying a licence, consult Scottish Natural Heritage.
- (7) The Scottish Ministers may modify or revoke a direction under subsection (5)(a).
- (8) Where a direction or order under subsection (5) is revoked, any existing licence granted under the direction or order continues to have effect (unless the revoking direction or order provides otherwise).]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (3).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

17 False statements made for obtaining registration[, identification number] 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)[, an identification number under section 11A(4)] 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Section heading: words “, identification number” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (5)(a).

Date in force: 22 November 2012: see SSI 2011/433, art 2(3A)(b) (as amended by SSI 2012/281, art 2(1), (2)).

Words “6(2) or” in italics repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt IV.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Words “, an identification number under section 11A(4)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 13(1), (5)(b).

Date in force: 22 November 2012: see SSI 2011/433, art 2(3A)(b) (as amended by SSI 2012/281, art 2(1), (2)).

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

[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.]

NOTES

Amendment

Inserted in relation to England and Wales by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 1; a corresponding amendment has been made in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 24.

Date in force (in relation to England and Wales): 31 May 2006: see SI 2006/1382, art 2.

Date in force (in relation to Scotland): 1 January 2012: see SSI 2011/433, art 2(1)(e).

See Further

See further, in relation to the application of this section for the purposes of the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 2, paras 7(a), 8–11.

[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

“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.]

NOTES

Amendment

Inserted in relation to England and Wales by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 1; a corresponding amendment has been made in relation to Scotland by the Wildlife and Natural Environment (Scotland) Act 2011, s 24.

Date in force (in relation to England and Wales): 31 May 2006: see SI 2006/1382, art 2.

Date in force (in relation to Scotland): 1 January 2012: see SSI 2011/433, art 2(1)(e).

See Further

See further, in relation to the application of this section for the purposes of the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 2, paras 7(b), 8–11.

[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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 1.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

See Further

See further, in relation to the application of this section for the purposes of the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 2, paras 7(c), 8–11.

[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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act

2006, s 52, Sch 5, Pt 1, para 1.

Date in force: 31 May 2006: see SI 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.

(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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 1.

Date in force: 31 May 2006: see SI 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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 1.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

See Further

See further, in relation to the application of this section for the purposes of the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 2, paras 7(d), 8–11.

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 for,] search or examine any thing which that person may then be using or *have in his possession* [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 [in or] on that thing;
- (c) *arrest that person . . .*;
- (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 [or has committed] an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) [or arresting a person, in accordance with [section 24] of the Police and Criminal Evidence Act 1984, for such an offence], [enter any premises other than a dwelling].

[(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* [evidence] on oath that there are reasonable grounds for [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 . . . *to enter upon and search those premises* [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.

[(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.
- (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.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in para (b) words “search for,” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(a)(i).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words “have in his possession” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(a)(ii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words “in or” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(a)(iii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): para (c) repealed, in relation to England and Wales, by the Police and Criminal Evidence Act 1984, s 119, Sch 7, Pt I.

Date in force: 1 January 1986: see SI 1985/1934, art 2, Schedule; for transitional provisions see art 3 thereof.

Sub-s (1): in para (c) words omitted repealed by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 4(a).

Date in force: this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (2): words “or has committed” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(b)(i) and by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 2(1), (2)(a).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Date in force (in relation to England and Wales): 31 May 2006: see SI 2006/1382, art 2.

Sub-s (2): words from “or arresting a person” to “such an offence” in square brackets inserted by the Police and Criminal Evidence Act 1984, s 119, Sch 6, para 25.

Sub-s (2): words “section 24” in square brackets substituted by the Serious Organised Crime and Police Act 2005, s 111, Sch 7, Pt 4, para 56.

Date in force: 1 January 2006: see SI 2005/3495, art 2(1)(m).

Sub-s (2): words “enter any premises other than a dwelling” in square brackets substituted in relation to England and Wales by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 2(1), (2)(b); a corresponding amendment has been made in relation to Scotland by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(b)(ii).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).
 Date in force (in relation to England and Wales): 31 May 2006: see SI 2006/1382, art 2.
 Sub-s (2A): inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 2(1), (3).
 Date in force: 31 May 2006: see SI 2006/1382, art 2.
 Sub-s (3): word “information” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(c)(i).
 Date in force: 1 October 2004: see SSI 2004/407, art 2(b).
 Sub-s (3): words “suspecting that an offence under this Part has been committed” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 7; a corresponding amendment has been made by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 4(b).
 Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).
 Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.
 Sub-s (3): words omitted repealed by the Natural Environment and Rural Communities Act 2006, ss 52, 105(2), Sch 5, Pt 1, para 2(1), (4), Sch 12; a corresponding repeal has been made by virtue of the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(c)(ii).
 Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).
 Date in force (in relation to England and Wales): 31 May 2006: see SI 2006/1382, art 2.
 Sub-s (3): words “to enter upon and search those premises” in italics repealed and subsequent words in square brackets substituted by virtue of the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(c)(ii).
 Date in force: 1 October 2004: see SSI 2004/407, art 2(b).
 Sub-ss (4)–(8): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 16(d).
 Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

See Further

See further, in relation to England and Wales, in relation to the application of sub-s (3) above in relation to an offence under the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992 as it applies in relation to an offence under Pt 1 hereof: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 4.

[19XA Constables’ 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 [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.

(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 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).]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 3.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (1): words “by section 19” in square brackets substituted by the Criminal Justice and Immigration Act 2008, s 148, Sch 26, Pt 2, para 7.

Date in force: 14 July 2008: see SI 2008/1586, art 2(1), Sch 1, para 48(e).

[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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 3.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

[19ZA . . .]

[. . .]

NOTES

Amendment

Inserted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 8.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Repealed by the Natural Environment and Rural Communities Act 2006, ss 52, 105(2), Sch 5, Pt 1, para 4, Sch 12.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

[19ZB . . .]

[. . .]

NOTES

Amendment

Inserted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 8.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Repealed by the Natural Environment and Rural Communities Act 2006, ss 52, 105(2), Sch 5, Pt 1, para 4, Sch 12.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

[19ZC Wildlife inspectors: Scotland]

[(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)[, 11(1)] 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[, 14ZC, 14A, 14B or 14K] is being, or has been, committed on those premises;
- (e) any premises 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 relevant registration or licence; or
 - (ii) ascertaining whether a condition to which a relevant registration or licence was subject to has been complied with].

- (4) In subsection (3)—
- (a) paragraphs (a) to (c) do not confer power to enter a dwelling except for purposes connected with—
 - (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), [11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] 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), [11I(1), 13(2), 14, 14ZC or 14A];

“specimen” means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 17.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): in para (a) reference to “, 11I(1)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (4)(a)(i).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (3): in para (d) words “, 14ZC, 14A, 14B or 14K” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (4)(a)(ii).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (3): in para (e) words from “— (i) verifying any” to “been complied with” in square brackets

substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (4)(a)(iii).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (5): words “11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (4)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (9): in definition “relevant registration or licence” in para (b) words “11I(1), 13(2), 14, 14ZC or 14A” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (4)(c).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

[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), [11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] 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), [11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] 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;
- [(c) “tissue” means any type of biological material other than blood].]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 17.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words “11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (5)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (4): words “11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (5)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (10): para (c) inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (5)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

[19A Evidence in Scotland *as to taking or destruction of eggs* [in certain proceedings]]

[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* [any of the following offences], the accused may be convicted on the evidence of one witness—

- (a) an offence under section 1(1)(a) in relation to a grouse, partridge, pheasant or ptarmigan included in Part I of Schedule 2;
- (b) an offence under section 1(1)(c);
- (c) an offence under section 6(1) in relation to a grouse, partridge or pheasant included in Part IA of Schedule 3;
- (d) an offence under section 6(2) in relation to a grouse, partridge, pheasant or ptarmigan included in Part IIA of that Schedule;
- (e) an offence under section 10A(1), 11G(1) or 11I(1)].]

NOTES

Extent

This section applies to Scotland only.

Amendment

Inserted by the Prisoners and Criminal Proceedings (Scotland) Act 1993, s 36.

Section heading: words “as to taking or destruction of eggs” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011,

s 12(a).

Date in force (except to the extent that it relates to an offence under s 10A(1) of this Act): 29 June 2011: see SSI 2011/279, art 2(1)(i).

Date in force (for remaining purposes): 1 January 2012: see SSI 2011/433, art 2(1)(b).

Words from “an offence under” to “of, this Act” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 12(b).

Date in force (except to the extent that it relates to an offence under s 10A(1) of this Act): 29 June 2011: see SSI 2011/279, art 2(1)(i).

Date in force (for remaining purposes): 1 January 2012: see SSI 2011/433, art 2(1)(b).

Paras (a)–(e) inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 12(c).

Date in force (except to the extent that it relates to an offence under s 10A(1) of this Act): 29 June 2011: see SSI 2011/279, art 2(1)(i).

Date in force (for remaining purposes): 1 January 2012: see SSI 2011/433, art 2(1)(b).

20 Summary prosecutions [20 Proceedings for summary offences]

(1) . . .

(2) *Summary proceedings for [an offence under this Part]* [Proceedings 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* [three] years after the commission of the offence [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Section heading: substituted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 53, Sch 6, para 3(1), (3).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (1): repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 12, para 9(1)(a), Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 5(a).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 9(2).

Date in force (in relation to Scotland): this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (2): words “Summary proceedings for an offence under this Part” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 53, Sch 6, para 3(1), (2).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (2): words “an offence under this Part” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 9(1)(b); a corresponding amendment has been made by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 5(b).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any

offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 9(2).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (2): word “two” in italics repealed and subsequent word in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 18(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): words from “or, in the case” to “offence was committed” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 18(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

21 Penalties, forfeitures etc

[(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13[, 14B] 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[, 14ZC] [or 14ZA] shall be liable—

- (a) on summary conviction, [to imprisonment for a term not exceeding *six* [12] months or to a fine not exceeding *the statutory maximum* [£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].

[(4ZA) Any person guilty of an offence under section 14K is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.]

[(4A) *Except in a case falling within subsection (4B), a person guilty of an offence under section 19ZA(7) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.*

[(4AA) Except in a case falling within subsection (4B) a person guilty of an offence under 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 [section 19XB(1)(a) or (2)(a)] in relation to a wildlife inspector [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;
- (b) on conviction on indictment, to a fine.

(4C) A person guilty of an offence under section [19XB(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.

(4D) *A person guilty of an offence under section 19ZB(9) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]*

(5) Where an offence to which subsection (1). . . 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 [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): substituted, for sub-ss (1)–(3) as originally enacted, by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 10(1), (2); a corresponding amendment has been made by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 6(a), (b).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (1) (as substituted by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 6(a), (b)): amended by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): reference to “, 14B” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (3)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4): reference to “, 14ZC” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (3)(b)(i).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4): words “or 14ZA” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 73(1); a corresponding amendment has been made by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(b)(i).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Date in force (in relation to England and Wales): 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): in para (a) words from “to imprisonment for” to “or to both” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 10(1), (3)(a); a corresponding amendment has been made by the Criminal Justice (Scotland) Act 2003, s 77, Sch

3, paras 1, 6(c).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (4): in para (a) word “six” in italics repealed and subsequent reference in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (3)(b)(ii).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4): in para (a) words “the statutory maximum” in italics repealed and subsequent sum in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(b)(ii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (4): in para (b) words “to imprisonment for a term not exceeding two years or to a fine, or to both” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 10(1), (3)(b); a corresponding amendment has been made by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 6(c).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this amendment came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (4ZA): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (3)(c).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-ss (4A)–(4D): inserted by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 10(1), (4), (6), except in relation to any offence committed prior to the coming into force of the said Sch 12, para 10; a corresponding amendment has been made by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(c).

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (4A): repealed, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, ss 52, 105(2), Sch 5, Pt 1, para 5(1), (2), Sch 12.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (4AA): inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 5(1), (3).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (4B): words “section 19XB(1)(a) or (2)(a)” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 5(1), (4)(a).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (4B): words from “entering premises to” to “has been committed” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 5(1), (4)(b).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (4C): reference to “19XB(4)” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 5(1), (5).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (4D): repealed, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, ss 52, 105(2), Sch 5, Pt 1, para 5(1), (2), Sch 12.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (5): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 81(1), 102, Sch 12, para 10(1), (5), Sch 16, Pt IV and by the Criminal Justice (Scotland) Act 2003, s 77, Sch 3, paras 1, 6(d).

Date in force (in relation to England and Wales): 30 January 2001 (except in relation to any

offence committed before that date): see the Countryside and Rights of Way Act 2000, s 103(2), Sch 12, para 10(6).

Date in force (in relation to Scotland): this repeal came into force on 26 March 2003 (date of the Royal Assent of the Criminal Justice (Scotland) Act 2003) in the absence of any specific commencement provision.

Sub-s (6): in para (b) words “or 14ZA” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 73(1); a corresponding amendment has been made by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(d).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Date in force (in relation to England and Wales): 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): para (b) (as amended by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 19(d)) further amended by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (3)(d).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

See Further

See further, in relation to the application of sub-ss (4AA), (4B), (4C) above for the purposes of the Destructive Imported Animals Act 1932, the Conservation of Seals Act 1970, the Deer Act 1991 and the Protection of Badgers Act 1992: the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 2, paras 7(e), 8–11.

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[—

- (a)] add any bird to, or remove any bird from, any of or any Part of *Schedules 1 [A1] to 4* [Schedules ZA1 to 4];
- [(b) add any animal to, or remove any animal from, Schedule 5[, 5A, 6 or 6A] 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.

[(2ZA) An order under subsection (1) adding any animal to Schedule 5A may prescribe a close season in the case of that animal for the purposes of section 10A.]

[(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 [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

[. . .].

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

(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 [, IA or IB] of Schedule 9; and*

(b) *add any plants to, or remove any plants from, Part II of that Schedule.*

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): para (a) numbered as such by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 20(a)(i).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (a) words “Schedules 1 to 4” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 47(1), (5).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (1): in para (a) reference to “1” repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 20(a)(ii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): paras (b), (c) inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 20(a)(iii).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in para (b) words “, 5A, 6 or 6A” in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 10(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(h).

Sub-s (1): in para (b) words “or Part I of Schedule 9” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (4)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (1): in para (c) words “or Part II of Schedule 9” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (4)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (2ZA): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 10(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(h).

Sub-s (2A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 20(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): words from “to him by” to “the 2006 Act” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 74(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3): words omitted inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(5).

Sub-s (3): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 74(1), (2)(b), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3A): inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 74(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-ss (4), (5): repealed by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 20(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (5): in para (a) words “, IA or IB” in square brackets inserted by the Infrastructure Act 2015, s 25(1), (5).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(c).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

UK

Wildlife and Countryside Act 1981 (Variation of Schedules) Order 1988, SI 1988/288 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule) Order 1989, SI 1989/906 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule) Order 1991, SI 1991/367 (made under sub-s (3)(a)).

Wildlife and Countryside Act 1981 (Variation of Schedule) Order 1992, SI 1992/320 (made under sub-s (5)).

Wildlife and Countryside Act 1981 (Variation of Schedules 5 and 8) Order 1992, SI 1992/2350 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule) (No 2) Order 1992, SI 1992/2674 (made under sub-s (5)).

Wildlife and Countryside Act 1981 (Variation of Schedules 2 and 3) Order 1992, SI 1992/3010 (made under sub-s (1)).

Wildlife and Countryside Act 1981 (Variation of Schedule 4) Order 1994, SI 1994/1151 (made under sub-s (1)).

Wildlife and Countryside Act 1981 (Variation of Schedule 9) Order 1997, SI 1997/226 (made under sub-s (5)).

Wildlife and Countryside Act 1981 (Variation of Schedules 5 and 8) Order 1998, SI 1998/878 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule 9) Order 1999, SI 1999/1002 (made under sub-s (5)).

Wildlife and Countryside Act 1981 (Variation of Schedule 5) (England) Order 2008, SI 2008/431 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule 5) (Wales) Order 2008, SI 2008/1927 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Variation of Schedule 4) (England) Order 2008, SI 2008/2356 (made under sub-s (1)).

Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Wales) Order 2009, SI 2009/780 (made under sub-s (1)).

Wildlife and Countryside Act 1981 (Variation of Schedule 9) (England and Wales) Order 2010, SI 2010/609 (made under sub-s (5)).

Wildlife and Countryside Act 1981 (Variation of Schedules 5 and 8) (England and Wales) Order

2011, SI 2011/2015 (made under sub-s (3)).

Scotland

Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005, SSI 2005/308 (made under sub-s (1)(c)).

Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Scotland) Order 2009, SSI 2009/418 (made under sub-s (1)(a)).

Wildlife and Countryside Act 1981 (Variation of Schedules A1 and 1A) (Scotland) Order 2013, SSI 2013/31 (made under sub-s (1)(a)).

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).

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Transfer of Functions

Functions of the Secretary of State and the Treasury, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[24 Functions of GB conservation bodies]

(1) The [GB 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 [30th 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;

[. . .].

[(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 [to that advice being given].

[(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 [GB conservation bodies] shall include power to advise or assist—

- (a) any constable; [or]
- (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),*
- [(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.

[(4A) The functions of Scottish Natural Heritage include the power to advise or assist—

- (a) another relevant body exercising functions under section 14L(2)(a); and
- (b) a person authorised to enter premises under section 14M exercising functions under that section.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Section heading: substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 75(1), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words from “GB conservation bodies,” to “the 2006 Act” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 75(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words “30th October 1991” in square brackets substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(6)(a).

Sub-s (1): words omitted inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(6)(a).

Sub-s (1): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 75(1), (2)(b), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1A): inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 75(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “to that advice being given” in square brackets substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(6)(b).

Sub-s (3): substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(6)(c).

Sub-s (4): words “GB conservation bodies” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 75(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): in para (a) word “or” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (6)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (4): in para (b) word “or” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (6)(b).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (4): para (c) substituted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 11.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (4): para (c) repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 22(1), (6)(c).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(d).

Sub-s (4A): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (5).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

26 Regulations, orders, notices etc

(1) Any power to make regulations or order under *this Part* [a provision of this Part other than section 14D] 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—

- (a) an order under any of] sections 2(6), 3, 5[, 10A(4)] *and* [or] 11 [11(4)][]; and
- (b) an order under section 22(1)(a) which removes from Part I of Schedule 2 black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge],

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No—

- (a)] order under section 5 or 11 [11(4)][]; or
- (b) order under section 22(1)(a) which removes from Part I of Schedule 2 any bird referred to in paragraph (b) of subsection (2),]

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* [a provision of this Part other than section 14D], the Secretary of State—

- (a) except in the case of an order under section 2(6)[, 14, 14ZC, 14A or 14B], 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;
- [(aa) in the case of an order under section 16A(5)(b), shall consult Scottish Natural Heritage;]
- (b) except in the case of an order under section [14, 14ZC, 14A, 14B,] [16A(5)(b) or] 22(3) [22], 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, [except in the case of an order under section 16A(5)(b),] if he thinks fit, cause a public inquiry to be held.

[(4A) The Scottish Ministers may make an order under section 14, 14ZC or 14A only where they have consulted—

- (a) Scottish Natural Heritage; and
- (b) any other person appearing to them to have an interest in the making of the order.

(4B) Subsection (4A) does not apply where the Scottish Ministers consider it necessary to make the order urgently and without consultation.]

(5) Notice of the making of an order under this Part[, other than an order under section 16A(5)(b),] 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): words “this Part” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (6)(a).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (2): words “— (a) an order under any of” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (6)(a)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (2): in para (a) reference to “3,” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (5)(a).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (2): in para (a) reference to “, 10A(4)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

Sub-s (2): in para (a) word “and” in italics repealed and subsequent word in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (6)(a)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (2): in para (a) reference to “11” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 21(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (2): para (b) and word “; and” immediately preceding it inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (6)(a)(iii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (3): para (a) designated as such by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (6)(b)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (3): in para (a) reference to “11” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 21(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3): para (b) and word “; or” immediately preceding it inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (6)(b)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Sub-s (4): words “this Part” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (6)(b)(i).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4): in para (a) words “, 14, 14ZC, 14A or 14B” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (6)(b)(ii).

Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(b)(i).

Date in force (for remaining purposes): 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (4): in para (a) words “, except in the case of an order under section 3,” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 4(1), (5)(b).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(a).

Sub-s (4): para (aa) inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (4)(a)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (4): in para (b) words “14, 14ZC, 14A, 14B,” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (6)(b)(iii).

Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(b)(i).

Date in force (for remaining purposes): to be appointed: see the Wildlife and Natural Environment (Scotland) Act 2011, s 43(1).

Sub-s (4): in para (b) words “16A(5)(b) or” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (4)(a)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-s (4): in para (b) reference to “22(3)” in italics repealed and subsequent reference in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 21(b).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (4): in para (c) words “except in the case of an order under section 16A(5)(b),” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (4)(a)(iii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Sub-ss (4A), (4B): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (6)(c).

Date in force (for certain purposes): 1 May 2012: see SSI 2012/116, art 2(b)(ii).

Date in force (for remaining purposes): 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sub-s (5): words “, other than an order under section 16A(5)(b),” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 18(1), (4)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(j).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[26A 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 [(that is, the Directive as amended from time to time by any other [EU] 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.]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 22.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Words from “(that is, the” to “instrument or otherwise)” in square brackets substituted by the Criminal Proceedings etc (Reform) (Scotland) Act 2007, s 44(2).

Date in force: 23 April 2007: see SSI 2007/250, art 3(c); for effect see the Criminal Proceedings etc (Reform) (Scotland) Act 2007, s 44(6).

Reference to “EU” in square brackets substituted by SI 2011/1043, art 6(1)(d).

Date in force: 22 April 2011: see SI 2011/1043, art 2; for transitional savings see art 3(3) thereof.

Subordinate Legislation

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2004, SSI 2004/475.

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2007, SSI 2007/80.

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2008, SSI 2007/17.

Conservation (Natural Habitats, &c) Amendment (No 2) (Scotland) Regulations 2008, SSI 2008/425.

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2011, SSI 2011/155.

[26B Annual report on wildlife crime]

[(1) The Scottish Ministers must, after the end of each calendar year, lay before the Scottish Parliament a report on offences relating to wildlife.]

- (2) The report may, in particular, include—
- (a) information on the incidence and prosecution of such offences during the year to which the report relates;
 - (b) information on research and advice relating to wildlife which the Scottish Ministers consider relevant to such offences.
- (3) The report need only include information in relation to such offences relating to wildlife as the Scottish Ministers consider appropriate.
- (4) For the purposes of this section, an offence relating to wildlife is an offence—
- (a) under Part 1 of this Act; or
 - (b) under any other enactment which the Scottish Ministers consider may have an impact on wildlife.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 20.
Date in force: 2 January 2012: see SSI 2011/433, art 2(2).

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—
 - (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, [any of the [GB conservation bodies]], . . . a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862 [or an inshore fisheries and conservation authority] . . .;
 - [(d) any person authorised in writing by—
 - (i) the Environment Agency, in relation to anything done in England;

- (ii) the Natural Resources Body for Wales, in relation to anything done in Wales; or
- (iii) 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 Firearms Act 1968;

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

[“inland waters” means—

- (a) inland waters within the meaning of the Water Resources Act 1991;
- (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 other than ground waters as defined in section 30A(1)(d) of that Act;]

[“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 . . . , a county, district or London borough council . . . ;
 - [(aa) in relation to Wales, a county council or county borough council;]
- (b) in relation to Scotland, a [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* [the domestic forms of the following, that is to say] fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

[“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 [species] which is ordinarily resident in or is a visitor to [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*;

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

“wild plant” means any plant [(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

[“wildlife inspector” has the meaning given by [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.

[(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.

[(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.]

[(3A) In this Part “the GB conservation bodies” means—

- (a) Natural England,
- (b) [the Natural Resources Body 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2.

Amendment

Sub-s (1): in definition “authorised person” para (d) inserted by the Water Act 1989, s 190(1), Sch 25, para 66(1).

Sub-s (1): in definition “authorised person” words from “by— (i) the” to “2009); (ii) any” in square brackets substituted by the Marine and Coastal Access Act 2009, s 193(4).

Date in force: 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(c).

Sub-s (1): in definition “authorised person” in para (c)(ii) words in square brackets beginning with the words “any of the” substituted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(7)(a).

Sub-s (1): in definition “authorised person” in para (c)(ii) words “GB conservation bodies” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 76(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in definition “authorised person” in para (c)(ii) first words omitted repealed by the Water Act 1989, s 190(3), Sch 27, Pt I.

Sub-s (1): in definition “authorised person” in para (c)(ii) words “or an inshore fisheries and conservation authority” in square brackets inserted by the Marine and Coastal Access Act 2009, s 184, Sch 14, para 11(a).

Date in force: 1 April 2011: see SI 2011/556, art 2(1), (2)(k).

Sub-s (1): in definition “authorised person” in para (c)(ii) second words omitted repealed by the Marine and Coastal Access Act 2009, s 321, Sch 22, Pt 4.

Date in force (in relation to Wales): 1 April 2010: see SI 2010/630, art 3(b); for transitional provisions see arts 8, 12 thereof.

Date in force (in relation to England): 1 April 2011: see SI 2011/556, art 2(1), (2)(o), (3).

Sub-s (1): in definition “authorised person” para (d) substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 171(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): definition “game bird” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 2(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(a).

Sub-s (1): definition “inland waters” inserted by SI 1995/2825, reg 4.

Sub-s (1): definition “inshore fisheries and conservation authority” inserted by the Marine and Coastal Access Act 2009, s 184, Sch 14, para 11(b).

Date in force: 1 April 2011: see SI 2011/556, art 2(1), (2)(k).

Sub-s (1): in definition “local authority” in para (a) first words omitted repealed by the Local Government (Wales) Act 1994, s 66(8), Sch 18.

Sub-s (1): in definition “local authority” in para (a) second words omitted repealed by the Local Government Act 1985, s 102(2), Sch 17.

Sub-s (1): in definition “local authority” para (aa) inserted by the Local Government (Wales) Act

1994, s 66(6), Sch 16, para 65(2).

Sub-s (1): in definition “local authority” in para (b) words “council constituted under section 2 of the Local Government etc (Scotland) Act 1994” in square brackets substituted by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 125(2).

Sub-s (1): in definition “poultry” word “domestic” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (2)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): definition “premises” inserted, in relation to England and Wales (including their adjacent territorial waters), by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 76(1), (3), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): definition “water authority” (omitted) repealed by the Water Industry (Scotland) Act 2002, s 71(2), Sch 7, para 11(1), (2).

Date in force: 1 April 2002: see SSI 2002/118, art 2(3).

Sub-s (1): in definition “wild bird” word “species” in square brackets substituted in relation to England by SI 2004/1487, regs 2, 4(a), 5, in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 2(a) and in relation to Scotland by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (2)(b)(i).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in definition “wild bird” words “the European territory of any member State” in square brackets substituted in relation to England by SI 2004/1487, regs 2, 4(b), 5 and in relation to Wales by SI 2004/1733, reg 3(1), Schedule, para 2(b); a corresponding amendment has been made in relation to Scotland by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (2)(b)(ii).

Date in force (in relation to England): 14 July 2004: see SI 2004/1487, reg 1(1).

Date in force (in relation to Wales): 2 August 2004: see SI 2004/1733, reg 1(1).

Date in force (in relation to Scotland): 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): in definition “wild bird” words “or, except in sections 5 and 16, any game bird” in italics repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 2(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(a).

Sub-s (1): definition “the Wild Birds Directive” inserted by SI 2007/1843, reg 7(1), (6).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Sub-s (1): in definition “wild plant” words “(including fungi)” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (2)(c).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (1): definition “wildlife inspector” inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 81(1), Sch 12, para 12.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): in definition “wildlife inspector” words “section 18A(1)” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 52, Sch 5, Pt 1, para 6.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (2A): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (3).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3ZA): inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 23(1), (4).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Sub-s (3A): substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 76(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3A): in para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 171(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings

see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Secretary of State and the Agriculture Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[27ZA . . .]

[. . .]

NOTES

Amendment

Inserted by SI 2004/1487, regs 2, 5.

Date in force: 14 July 2004: see SI 2004/1487, reg 1(1).

Repealed by SI 2004/1733, reg 3(1).

Date in force: 2 August 2004: see SI 2004/1733, reg 1(1).

Part II

Nature Conservation, Countryside and National Parks

. . .

NOTES

Amendment

Repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 77, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[27A . . .]

[. . .]

NOTES

Amendment

Repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 77, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(8).

[Sites of special scientific interest and limestone pavements]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 78.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[27AA Application 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 Natural Resources Body for Wales and as if section 28D(2)(d) were omitted].]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 78.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Words from “the Natural Resources” to “28D(2)(d) were omitted” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 172.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

[28 Sites of special scientific interest]

[(1) Where [Natural 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 [Natural England] to notify that fact—

- (a) to the local planning authority [(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.

[(1A) The reference in subsection (1) to land 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 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) [Natural England] shall also publish a notification of [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 [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 [Natural England] to be likely to damage that flora or fauna or those features,

and shall contain a statement of [Natural England's] views about the management of the land (including any views [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, [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).

[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.

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

(7) [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.

[(9A) For the purposes of this Part “estuarial waters” means any waters within the limits 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.]

NOTES

Amendment

Substituted, by new ss 28, 28A–28N, 28P–28R, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act (Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para

4).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).
Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (a) words “(if any)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (2); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-ss (1A)–(1C): inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (3); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “the fact mentioned in subsection (1)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (4); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words from “In the case” to “28CB(4) and (6)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (5); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (6A): inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (6); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (7): words “Natural England’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (9A): inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 2(1), (7); for transitional provision see s 148, Sch 13, Pt 2, para 2(1), (8) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Modification

A National Park authority which is the local planning authority for any National Park, and not any other authority, has all the functions under this Act which are conferred as respects that Park on a planning authority of any description, by virtue of the Environment Act 1995, s 69(1).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[28A 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), [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) [Natural England] shall give notice setting out the variation to—

- (a) the local planning authority [(if any)] in whose area the land is situated,
- (b) every owner and occupier of any of the land who in the opinion of [Natural England] 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, [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).]

NOTES

Amendment

Substituted, together with ss 28, 28B, 28C–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): in para (a) words “(if any)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 3.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (5): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28B Notification of additional land]

[(1) Where [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, [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 [(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.

[(2A) 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 [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 [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)” [and “subsection (1B)”] in section 28(5) to (7) were references to subsection (2) [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A, 28C–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 (as amended by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 170(1)) to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (a) words “(if any)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 5(1), (2); for transitional provision see s 148, Sch 13, Pt 2, para 5(1), (6) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-ss (2A)–(2C): inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 5(1), (3); for transitional provision see s 148, Sch 13, Pt 2, para 5(1), (6) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access

Act 2009, s 324(2)(b)(ii).
 Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).
 Sub-s (3): words “notification under subsection (2)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 5(1), (4); for transitional provision see s 148, Sch 13, Pt 2, para 5(1), (6) thereto.
 Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).
 Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).
 Sub-s (5): in para (c) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.
 Date in force: 1 October 2006: see SI 2006/2541, art 2.
 Sub-s (7): words “and “subsection (1B)”” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 5(1), (5)(a); for transitional provision see s 148, Sch 13, Pt 2, para 5(1), (6) thereto.
 Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).
 Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).
 Sub-s (7): words “and subsection (2B) of this section respectively” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 5(1), (5)(b); for transitional provision see s 148, Sch 13, Pt 2, para 5(1), (6) thereto.
 Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).
 Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).
 Date in force (in relation to Wales): to be appointed: see the Marine and Coastal Access Act 2009, s 324(3), (5), (6).

[28C Enlargement of SSSI]

[(1) Where [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, [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 [(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.

[(2A) 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 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)”, “subsection (1)(b)” and “subsection (1B)” in section 28(2) to (8) were references to subsection (2)[, 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).]

NOTES

Amendment

Substituted, together with ss 28, 28A, 28B, 28D–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 (as amended by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 170(1)) to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (a) words “(if any)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 6(1), (2); for transitional provision see s 148, Sch 13, Pt 2, para 6(1), (5) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-ss (2A)–(2C): inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 6(1), (3); for transitional provision see s 148, Sch 13, Pt 2, para 6(1), (5) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (3): words “, subsection (1)(b)” and “subsection (1B)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 6(1), (4)(a); for transitional provision see s 148, Sch 13, Pt 2, para 6(1), (5) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (3): words “, subsection (2)(b) and subsection (2B)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 6(1), (4)(b); for transitional provision see s 148, Sch 13, Pt 2, para 6(1), (5) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

[28CA Guidance 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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 7.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

[28CB 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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 8.

Date in force (in so far as it confers power to make regulations or an order): 12 November 2009: see the Marine and Coastal Access Act 2009, s 324(1)(c).

Date in force (for remaining purposes in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (for remaining purposes in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

[28D Denotification]

- [(1) Where [Natural England] are of the opinion that all or part of a site of special scientific interest—
- [(a)] is [not] of special interest by reason of any of the matters mentioned in section 28(1), [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 [(if any)] in whose area [the 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 Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the Land Drainage Act 1991) whose works, operations or activities may affect the land.
- (3) [Natural England] shall also publish a notification of [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, [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).]

NOTES

Amendment

Substituted, together with ss 28, 28A–28C; 28E–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): para (a) designated as such by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 9(1), (2).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (1): in para (a) word “not” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 56.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (1): para (b) and word “or” immediately preceding it inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 9(1), (2).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (2): in para (a) words “(if any)” in square brackets inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 9(1), (3)(a).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (2): in para (a) words “the land mentioned in subsection (1)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 9(1), (3)(b).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “the fact mentioned in subsection (1)(a) or (b)” in square brackets substituted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 9(1), (4).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (5): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28E 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 [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 [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[, 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 [Natural England] do not consent, they shall give notice saying so to the person who gave the notice under subsection (1).

(6) [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 [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) [Natural England] shall have power to enforce the provisions of this section.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28D, 28F–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): in para (a) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): in para (a) words “Natural England’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): in para (b) words “, section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2006” in square brackets substituted by the Natural Environment and

Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 80.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): words "Natural England's" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (10): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28F 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 [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 [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 [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 [Natural 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 [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 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 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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28E, 28G–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (5): words “Natural England” in square brackets in both places they occur substituted by the

Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Subordinate Legislation

Wildlife and Countryside (Sites of Special Scientific Interest, Appeals) (Wales) Regulations 2002, SI 2002/1772 (made under sub-s (6)).

Sites of Special Scientific Interest (Appeals) Regulations 2009, SI 2009/197 (made under sub-s (6)).

Sites of Special Scientific Interest (Appeals) (Amendment) Regulations 2010, SI 2010/2019 (made under sub-s (6)).

[28G 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 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 . . .; and
- (f) any other public body of any description.]

[(4) “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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28F, 28H–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (3): in para (e) words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 81(1), (2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 81(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28H Statutory undertakers, etc: duty in relation to carrying out operations]

[(1) A section 28G authority shall give notice to [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), [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 [Natural England] do not assent, or if the authority proposes to carry out the operations otherwise than in accordance with the terms of [Natural England'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 [Natural England] 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 [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28G, 28I–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and

Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[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 [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 [Natural England] have notified the authority that it need not wait until then.

(5) The authority shall take any advice received from [Natural 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 [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 [Natural England], the notice to include a statement of how (if at all) the authority has taken account of [Natural England’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).]

NOTES

Amendment

Substituted, together with ss 28, 28A–28H, 28J–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).
Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): in para (a) words “Natural England’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28J Management schemes]

[(1) [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) [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 [Natural England] shall consider any representation or objection duly made.

(8) Where a notice under subsection (3) has been given, [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) [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) [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).]

NOTES

Amendment

Substituted, together with ss 28, 28A–28I, 28K–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (8): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (10): words “Natural England's” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (11): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28K Management notices]

[(1) Where it appears to [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 [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, [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28J, 28L–28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): words “Natural England” in square brackets substituted by the Natural Environment and

[28L 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 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 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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28K, 28M, 28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Subordinate Legislation

Wildlife and Countryside (Sites of Special Scientific Interest, Appeals) (Wales) Regulations 2002, SI 2002/1772 (made under sub-s (8)).

Sites of Special Scientific Interest (Appeals) Regulations 2009, SI 2009/197 (made under sub-s (8)).

Sites of Special Scientific Interest (Appeals) (Amendment) Regulations 2010, SI 2010/2019 (made under sub-s (8)).

[28M Payments]

[(1) Where [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) [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 [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28L, 28N, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and

modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28N Compulsory purchase]

[(1) [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 [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 [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 [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28M, 28P–28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[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* [on summary conviction, 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* [on summary conviction, 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* [on summary conviction, 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 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 [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.

[(5A) A section 28G authority which, in the exercise of its functions, permits the carrying out 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* [on summary conviction, 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* [on summary conviction, or on conviction on indictment, to a fine].

[(6A) 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 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) [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) [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 [Natural England].

(11) In this section, “a section 28G authority” means an authority to which section 28G applies.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28N, 28Q, 28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words from “on summary conviction” to “to a fine” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (2)(a).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (2): words from “on summary conviction” to “to a fine” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (2)(b).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (3): words from “on summary conviction” to “to a fine” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (2)(c).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (4): in para (b) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-ss (5A), (5B): inserted by the Natural Environment and Rural Communities Act 2006, s 55(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5A): words from “on summary conviction” to “to a fine” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (2)(d).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (6): words from “on summary conviction” to “to a fine” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (2)(e).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (6A): inserted by the Natural Environment and Rural Communities Act 2006, s 55(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): words “or (6A)” in square brackets in both places they occur inserted by the Natural Environment and Rural Communities Act 2006, s 55(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (10): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28Q 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 [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28N, 28P, 28R, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[28R Byelaws]

[(1) [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.]

NOTES

Amendment

Substituted, together with ss 28, 28A–28N, 28P, 28Q, for s 28 as originally enacted, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 1; for transitional provisions and modifications, see ss 75(2), 76(2) of, and Sch 11 to, the 2000 Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

[28S 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.]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 58(1).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

29 . . .

...

NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 75(1), 102, Sch 9, para 2, Sch 16, Pt III and by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4; for transitional provisions and modifications in relation to England and Wales see the Countryside and Rights of Way Act 2000, s 76(2), Sch 11, paras 15–18, and for transitional provisions and savings in relation to Scotland see the Nature Conservation (Scotland) Act 2004, s 49(1), Sch 5, paras 1, 11.

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 29 November 2004: see SSI 2004/495, art 2.

30 ...

...

NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 75(1), 102, Sch 9, para 2, Sch 11, para 19(1), Sch 16, Pt III, except in relation to an order made under s 29 of this Act prior to the coming into force of the said Sch 9, para 2, and by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force (in relation to England and Wales): 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Date in force (in relation to Scotland): 29 November 2004: see SSI 2004/495, art 2.

31 Restoration where order under s 29 is contravened [Restoration following offence under section 28P]

[(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) [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 Criminal 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 [the Supreme Court] the conviction is restored by [the Supreme Court], [the 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 [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, [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.*

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 6 September 1982: see SI 1982/1136, art 2.

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Section heading: substituted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 3(1), (3), Sch 11, para 20(2), subject to savings in relation to an offence under s 29 of this Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): substituted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 3(1), (2), Sch 11, para 20(2), subject to savings in relation to an offence under s 29 of this Act.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): in para (b) words “or (6A)” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 55(5).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “the Supreme Court” in square brackets in each place they occur substituted by the Constitutional Reform Act 2005, s 40(4), Sch 9, Pt 1, para 37.

Date in force: 1 October 2009: see SI 2009/1604, art 2(d).

Sub-s (5): maximum fine in para (a) converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Sub-s (6): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

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

(1) Where an application for [a farm capital grant] is made as respects expenditure incurred or to be incurred for the purpose of activities on land notified under section 28(1) [land included in a site of special scientific interest] or land to which section 29(3) applies, the appropriate Minister—

- (a) shall, so far as may be consistent with the purposes of [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 [Natural 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 [Natural 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), [Natural 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.

[(3) In this section—

“the appropriate Minister” means the Minister responsible for determining the application;

“farm capital grant” means—

(a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or

(b) 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—

(i) 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

(ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the [EU] instrument in pursuance of which the regulations were made.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/87, art 2.

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): words “a farm capital grant” in square brackets substituted by the Agriculture Act 1986, s 20(1), (2)(a).

Sub-s (1): words “land notified under section 28(1)” repealed and subsequent words in square brackets substituted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 4.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “or land to which section 29(3) applies” repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt III, except (by virtue of Sch 11, para 19(2) to the 2000 Act) in relation to an application relating to land to which s 29(3) of this Act applied immediately before its repeal, as if that land were included in a site of special scientific interest.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): words “the grant provisions” in square brackets substituted by the Agriculture Act 1986, s 20(1), (2)(b).

Sub-s (1): in para (b) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 79.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): substituted by the Agriculture Act 1986, s 20(1), (3).

Sub-s (3): in definition “grant provisions” in para (ii) reference to “EU” in square brackets substituted by SI 2011/1043, art 6(1)(d).

Date in force: 22 April 2011: see SI 2011/1043, art 2; for transitional savings see art 3(3) thereof.

Transfer of Functions

Functions of the appropriate Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

33 Ministerial guidance as respects areas of special scientific interest

(1) *The Ministers shall from time to time, after consultation with the [Natural England] and such persons appearing to them to represent other interests concerned as they consider appropriate—*

(a) *prepare codes containing such recommendations, advice and information as they consider proper for the guidance of—*

(i) *persons exercising functions under sections 28 to 32; and*

(ii) *persons affected or likely to be affected by the exercise of any of those functions; and*

(b) *revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as the Ministers think fit.*

(2) *A code prepared in pursuance of subsection (1) and any alterations proposed to be made on a revision of such a code shall be laid before both Houses of Parliament forthwith after being prepared; and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by both Houses.*

(3) *Subject to subsection (2), the Ministers shall cause every code prepared or revised in pursuance of subsection (1) to be printed, and may cause copies of it to be put on sale to the public at such price as*

the Ministers may determine.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 82.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Transfer of Functions

Functions of the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

34 Limestone pavement orders

[(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 [Natural 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 the statutory maximum [£20,000];*

(b) *on conviction on indictment, to a fine [on summary conviction, or 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 [Part III of the Town and Country Planning Act 1990] . . .*

(6) *In this section—*

. . .

“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;

[“the relevant authority” means—

(a) *in relation to a non-metropolitan county [in England], the county planning authority and, in relation to any other area in England, the local planning authority;*

[(aa) *in relation to any area in Wales, the local planning authority;*]

(b)]

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 83(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 83(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (4): paras (a), (b) repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2015/664, reg 4(1), Sch 4, Pt 1, para 10(1), (3).

Date in force: 12 March 2015: see SI 2015/664, reg 1(1); for transitional provision and savings see reg 5(1).

Sub-s (4): words “the statutory maximum” repealed and subsequent sum in square brackets substituted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 78, except in relation to any offence committed prior to the coming into force of the said s 78.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (5): words “Part III of the Town and Country Planning Act 1990” in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 54(1).

Sub-s (5): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 83(1), (4), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (6): definition “the Agency” (omitted) repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 83(1), (5)(a), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (6): definition “the relevant authority” substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Sub-s (6): in definition “the relevant authority” in para (a) words “in England” in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(3).

Sub-s (6): in definition “the relevant authority” para (aa) inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(3).

Sub-s (6): in definition “the relevant authority” para (b) repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 83(1), (5)(b), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Modification

A National Park authority which is the local planning authority for any National Park, and not any other authority, has all the functions under this Act which are conferred as respects that Park on a planning authority of any description, by virtue of the Environment Act 1995, s 69(1).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[Nature reserves, . . . and Ramsar sites]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 84.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Cross-heading: words omitted repealed, in relation to England and Wales, by the Marine and Coastal Access Act 2009, s 146(1), Sch 11, para 2(1), (3) and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(a).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Wales except in respect of marine conservation zones): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

[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 Natural Resources Body for Wales];
- (c) in relation to Scotland, Scottish Natural Heritage.]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 84.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

In para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 173.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

35 National nature reserves

(1) Where [the appropriate conservation body] are satisfied that any land which—

- (a) is being managed as a nature reserve under an agreement entered into with [the appropriate conservation body];
- (b) is held by [the 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.

[(1A) The land which may be declared to be a national nature reserve in England or Wales 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 [the appropriate conservation body] that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5) 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, [the appropriate conservation body] may, 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 [the appropriate conservation body] for the purposes of this section;

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

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Sub-s (1): words "the appropriate conservation body" in square brackets in each place they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 85.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-ss (1A)–(1D): inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 3, para 10(1); for saving see s 148, Sch 13, Pt 3, para 10(2) thereto.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (2): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 85.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 85.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (5): in definition “approved body” words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 85.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

[35A Power to call in subtidal declarations]

- [(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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 3, para 11.

Date in force (in so far as it confers power to make regulations or an order): 12 November 2009: see the Marine and Coastal Access Act 2009, s 324(1)(c).

Date in force (for remaining purposes in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (for remaining purposes in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

36 . . .

. . .

NOTES

Amendment

Repealed in relation to England and Wales by the Marine and Coastal Access Act 2009, ss 146(1), 321, Sch 11, para 2(1), (2)(a), Sch 22, Pt 3 and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(b).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i); for transitional provisions see Sch 12 thereto.

Date in force (in relation to Wales except in respect of marine conservation zones): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

37 . . .

. . .

NOTES

Amendment

Repealed in relation to England and Wales by the Marine and Coastal Access Act 2009, ss 146(1), 321, Sch 11, para 2(1), (2)(a), Sch 22, Pt 3 and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(b).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i); for transitional provisions see Sch 12 thereto.

Date in force (in relation to Wales except in respect of marine conservation zones): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

[37A Ramsar sites]

[(1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article, the Secretary of State shall—

- (a) notify [Natural England] if all or part of the wetland is in England;
- (b) notify [the Natural Resources Body for Wales] if it is in Wales; or
- (c) 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; [and]
- (c) . . .
- (d) every relevant undertaker (within the meaning of section 4(1) of the Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the Land Drainage Act 1991) whose works, operations or activities may affect the wetland.

[(2A) Subject to subsection (3), upon receipt of a notification under subsection (1), Natural England shall, in turn, notify the Environment Agency.]

(3) [Natural England] and [the Natural Resources Body 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—

- (a) 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).]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 77.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): in para (a) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 86.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 175(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (b) word “and” in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 175(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): para (c) repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 175(1), (3)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2A): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 175(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 86.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 175(1), (5).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

38 < . . . >

< . . . >

NOTES

Amendment

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt VI.

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 . . . 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 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.
- (5) In this section “the relevant authority” means—
- (a) . . .
 - [(aa) as respects land within the Broads, the Broads Authority;]
 - (b) . . .
 - (c) as respects any other land, the local planning authority;
 - [(d) . . .
 - (e) as respects any land in Wales, [the Natural Resources Body 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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 96(a), 102, Sch 16, Pt VI.

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(f), (i), (m).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(h), (i), (q).

Sub-s (5): para (a) repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (5): para (aa) inserted by the Norfolk and Suffolk Broads Act 1988, s 2(5), (6), Sch 3, Pt I.

Sub-s (5): para (b) repealed by the Local Government Act 1985, ss 7, 102, Sch 3, para 7, Sch 17.

Sub-s (5): paras (d)–(f) inserted by the Countryside and Rights of Way Act 2000, s 96(b).

Date in force (in relation to England): 1 April 2001: see SI 2001/114, art 2(2)(f).

Date in force (in relation to Wales): 1 May 2001: see SI 2001/1410, art 2(h).

Sub-s (5): para (d) repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 87, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3,

Schedule, para 5 thereto.

Sub-s (5): in para (e) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 176.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Modification

As respects any land in any National Park for which a National Park authority is the local planning authority, that authority shall be the relevant authority for the purposes of this section, by virtue of the Environment Act 1995, s 69.

40 Experimental schemes

...

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

This section amends the Countryside Act 1968, s 4.

41 Duties of agriculture Ministers with respect to the countryside

(1) ...

(2) *In the exercise of his general duty under section 4(2) of the 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*

- [(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 [a 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 [(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 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;*

. . . .

(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 on 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—*

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

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

["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].

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

(6) . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/87, art 2.

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-ss (1), (2), (5), (6): words omitted repealed and words in square brackets substituted by the Agriculture Act 1986, s 24(4), (5), Sch 3, para 4, Sch 4.

Sub-s (3): words "a farm capital grant" in square brackets substituted by the Agriculture Act 1986, s 20(4)(a).

Sub-s (3): words "(including a National Park in Scotland)" in square brackets inserted by the National Parks (Scotland) Act 2000, s 36, Sch 5, para 8(2).

Date in force: 8 September 2000: see the National Parks (Scotland) Act 2000, s 37, and SSI 2000/312, art 2.

Sub-s (3): in para (a) words "the grant provisions" in square brackets substituted by the Agriculture Act 1986, s 20(4)(b).

Sub-s (3): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 88(1), (2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5): definitions “management agreement” and “the relevant authority” substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 88(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (5A): inserted by the Norfolk and Suffolk Broads Act 1988, s 2(5), (6), Sch 3, Part I; words in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 22(2).

Sub-s (6): repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 88(1), (4), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Modification

As respects any land in any National Park for which a National Park authority is the local planning authority, that authority shall be the relevant authority for the purposes of this section, by virtue of the Environment Act 1995, s 69.

Transfer of Functions

Functions of the Ministers and the appropriate Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

National Parks

[41A 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 Natural Resources Body for Wales].]

NOTES

Amendment

Inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 89.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 176.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

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

(1) [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 [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 [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 [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 [National 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 [National Park authority] are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to [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.
- [(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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): words “A National Park authority” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 63(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (1): words “the relevant Park” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 63(1), (2)(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): in para (b) words “the National Park authority” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 63(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (3): in para (a) words “National Park authority” in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 22(3).

Sub-s (4): in para (a) words “National Park authority” in square brackets substituted by the

Environment Act 1995, s 78, Sch 10, para 22(3).

Sub-s (6): words “National Park authority” in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 22(3).

Sub-s (6): words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 63(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (8): substituted by the Natural Environment and Rural Communities Act 2006, s 63(1), (5).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Transfer of Functions

Functions of the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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

(1) Every [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 [the relevant date], prepare a map of the Park or the part thereof showing any areas [to which this section applies whose natural beauty] it is, in the opinion of the authority, particularly important to conserve; and
- (b) [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.

[(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 [local planning authority] shall act in accordance with the guide-lines from time to time issued . . . under subsection (1B).

(1B) [Natural England shall] issue guidelines for the guidance of [local planning authorities] in considering as mentioned in subsection (1A), and [Natural England may] from time to time revise any guidelines so issued.

(1C) Before issuing or revising any guidelines under subsection (1B) [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 [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.

[(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).]

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): first words in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7; other words in square brackets substituted by the Wildlife and Countryside (Amendment) Act 1985, s 3.

Sub-s (1A): inserted by the Wildlife and Countryside (Amendment) Act 1985, s 3; words in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7; words omitted repealed by the Environmental Protection Act 1990, ss 130, 162, Sch 8, para 6(3), Sch 16, Part VI.

Sub-s (1B): inserted by the Wildlife and Countryside (Amendment) Act 1985, s 3.

Sub-s (1B): words "Natural England shall" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 90(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1B): words "local planning authorities" in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Sub-s (1B): words "Natural England may" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 90(1), (2)(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1C): inserted by the Wildlife and Countryside (Amendment) Act 1985, s 3.

Sub-s (1C): words "Natural England" in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 90(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1C): words "local planning authority" in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Sub-s (3): inserted by the Wildlife and Countryside (Amendment) Act 1985, s 3.

Modification

As respects any National Park for which a National Park authority is the local planning authority, that authority and no other authority shall have the functions conferred on a planning authority of any description, by virtue of the Environment Act 1995, s 69; for further provision see in particular s 69(3) thereof.

44 Grants and loans for purposes of National Parks

(1) . . .

[(1A) . . . 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 [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) [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.

[(4) For the purposes of this section the Broads Authority shall be treated as a [National Park authority and the Broads as a National Park for which it is the local planning authority].]

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1A): inserted by the Environment Act 1995, s 69; words omitted repealed by the Environment Act 1995, s 120, Sch 24.

Sub-ss (2), (3): words in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 22(4)(a), (b).

Sub-s (4): inserted by the Norfolk and Suffolk Broads Act 1988, s 2(5), (6), Sch 3, Part I; words in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 22(4)(c).

45 Power to vary orders designating National Park

[(1)] [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 [. . .], 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 [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.

[(2)] . . .]

NOTES**Initial Commencement****Specified date**

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): numbered as such by the Environmental Protection Act 1990, s 130, Sch 8, para 6(4).

Sub-s (1): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 91(1), (2)(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (1): words omitted inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 6(4).

Sub-s (1): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 91(1), (2)(b), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Sub-s (2): inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 6(4).

Sub-s (2): repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 91(1), (3), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the

National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

46 < . . . >

< . . . >

NOTES

Amendment

Repealed by the Environment Act 1995, s 120(3), Sch 24.

Miscellaneous and supplemental

47 . . .

. . .

NOTES

Amendment

Repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 177.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

48 < . . . >

< . . . >

NOTES

Amendment

Repealed by the Water Act 1989, s 190(3), 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[, [the Natural Resources Body for Wales]] or [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 ([Natural England] [or [the Natural Resources Body 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 [Natural England] [or [the Natural Resources Body for Wales]] any additional power to appoint wardens.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This section does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): in para (b) comma in square brackets inserted by virtue of the Environmental Protection Act 1990, s 130, Sch 8, para 6(6).

Sub-s (1): in para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 178.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (b) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 93(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words “Natural England” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 93(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): words in square brackets beginning with word “or” in both places they occur inserted by the Environmental Protection Act 1990, s 130, Sch 8, para 6(6).

Sub-s (4): words “the Natural Resources Body for Wales” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 178.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

50 Payments under certain agreements offered by authorities

(1) *This section applies where—*

- (a) *[Natural England or [the Natural Resources Body 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 [to any person; or]*
- (b) *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 . . . 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 . . . determination; or*
- (b) *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—*

[“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;

[“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].

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): in para (a) words in square brackets beginning with the words “Natural England or” substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 94(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): in para (a) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 179.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (a) words “to any person; or” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 79.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (3): words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 94(1), (3), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): in para (a) words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 94(1), (3), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): definition “farm capital grant” substituted by the Agriculture Act 1986, s 20(6).

Sub-s (4): definitions “nature reserve agreement” and “SSSI agreement” inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 94(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Modification

As respects any land in any National Park for which a National Park authority is the local planning authority, that authority shall be the relevant authority for the purposes of this section, by virtue of the Environment Act 1995, s 69.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

51 Powers of entry

(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—*

- [(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 [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 [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;*
- [(ka) *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;*]
- [(n) *to determine whether or not to give or vary a stop notice;*]

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

[(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—*

- (a) *for the purposes of [paragraphs (a) to (ka)] [and paragraph (n)] of that subsection, [Natural England or [the Natural Resources Body for Wales]];*
- (b) *for the purposes of [paragraph (l)] of that subsection, the Secretary of State or the relevant authority within the meaning of section 34;*
- (c) *for the purposes of [paragraph (m)] of that subsection, . . . the [National Park authority].*

[(2A) *In subsection (1)—*

“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.]

(3) *A person shall not demand admission as of right to any land which is occupied unless either—*

(a) *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].*

[(3A) *A person acting in the exercise of a power conferred by subsection (1) may—*

(a) *use a vehicle or a boat to enter the land;*

(b) *take a constable with him if he reasonably believes he is likely to be obstructed;*

(c) *take with him equipment and materials needed for the purpose for which he is exercising the power of entry;*

(d) *take samples of the land and of anything on it.*

(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 [level 3 on the standard scale].*

[(5) *It is the duty of a relevant authority to compensate any person who has sustained damage as a result of—*

(a) *the exercise of a power conferred by subsection (1) by a person authorised to do so by that relevant authority, or*

(b) *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.]

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4; for savings see s 49(1), Sch 5, paras 1–7 thereto.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): paras (a)–(m) substituted, for paras (a)–(d) as originally enacted, by the Countryside and Rights of Way Act 2000, s 80(1), (2).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (1): in paras (c), (h) words “a nature reserve agreement or an SSSI agreement or” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 95(1), (2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): para (ka) inserted by the Natural Environment and Rural Communities Act 2006, s 58(2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): para (n) inserted, in relation to England and Wales, by the Countryside and Rights of

Way Act 2000, s 76(2), Sch 11, para 21.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, ss 76(2), 103(2), Sch 11, para 21.

Sub-ss (1A), (1B): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 80(1), (3).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): in para (a) words “paragraphs (a) to (ka)” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 58(3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (a) words “and paragraph (n)” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 76(2), Sch 11, para 21.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, ss 76(2), 103(2), Sch 11, para 21.

Sub-s (2): in para (a) words in square brackets beginning with the words “Natural England or” substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 95(1), (3).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (a) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 179.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (b) words “paragraph (l)” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 80(1), (4)(b).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): in para (c) words “paragraph (m)” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 80(1), (4)(c).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): in para (c) words omitted repealed by the Natural Environment and Rural Communities Act 2006, ss 63(6), 105(2), Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (2): in para (c) words “National Park authority” in square brackets substituted by the Environment Act 1995, s 78, Sch 10, para 22(5).

Sub-s (2A): inserted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 95(1), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): para (b) substituted by the Countryside and Rights of Way Act 2000, s 80(1), (5).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-ss (3A), (3B): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 80(1), (6).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (4): maximum fine converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Sub-s (5): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 80(1), (7).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Transfer of Functions

Functions of the Secretary of State and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[51A 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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 53, Sch 6, para 4.

Date in force: 31 May 2006: see SI 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;

[“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;

[.

[“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) [In the application of this Part to England (except as respects [a National Park for which a National Park authority is the local planning authority,] a metropolitan county or Greater London) . . . references to a local planning authority shall be construed—

(a) . . .

(b) . . . , as references to a county planning authority and a district planning authority [and, in sections 28 to 28D, shall also be construed in accordance with section 28(10)];]

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.

[(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* [subject to rights of common (within the meaning of the Commons Act 2006)], “occupier” includes *the commoners or any of them; and*

- (a) *“common land” means common land as defined in section 22 of the Commons Registration Act 1965; and*
- (b) *“commoner” means a person with rights of common as defined in that section [the persons with such rights or any of them and any commons council established under Part 2 of the Commons Act 2006 for that land].*

(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.

(5) . . .

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Sub-s (1): definition “estuarial waters” inserted by the Marine and Coastal Access Act 2009, s 148, Sch 13, Pt 2, para 4.

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(ii).

Date in force (in relation to Wales): 12 December 2014: see SI 2014/3088, art 2(b).

Sub-s (1): definition “the Nature Conservancy Councils” (omitted) and subsequent words omitted inserted by the Environmental Protection Act 1990, s 132, Sch 9, para 11(13).

Sub-s (1): definition “the Nature Conservancy Councils” (omitted) and subsequent words omitted repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 96, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): definitions “notice” and “notification”, and “site of special scientific interest” inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 5(1), (2).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): words in square brackets beginning with the words “In the application” substituted by the Local Government Act 1985, s 7(1), Sch 3, para 7(1), (5).

Sub-s (2): words “a National Park for which a National Park authority is the local planning authority,” in square brackets inserted by the Environment Act 1995, s 78, Sch 10, para 22(6).

Sub-s (2): first words omitted repealed by the Local Government (Wales) Act 1994, s 66(6), (8), Sch 16, para 65(6), Sch 18.

Sub-s (2): para (a) repealed by the Environment Act 1995, s 120(3), Sch 24.

Sub-s (2): in para (b) words omitted repealed by the Environment Act 1995, s 120(3), Sch 24.

Sub-s (2): in sub-para (b) words from “and, in sections” to “with section 28(10)” in square brackets inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 5(1), (3).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-ss (2A)–(2C): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 5(1), (4).

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2C): words “common land” in italics repealed and subsequent words in square brackets substituted by the Commons Act 2006, s 52, Sch 5, para 3(a).

Date in force (in relation to England for certain purposes): 31 October 2011: see SI 2011/2460, art 2(a)(ii), (b); for transitional provision see art 3 thereof.

Date in force (in relation to England for certain purposes): 12 November 2014: see SI 2014/3026, art 3(1)(g).

Date in force (in relation to England for remaining purposes): 15 December 2014: see SI 2014/3026, art 3(1)(g); for savings see art 5.

Date in force (in relation to Wales): to be appointed: see the Commons Act 2006, s 56(1).

Sub-s (2C): words from “the commoners or” to the end repealed and subsequent words in square brackets substituted by the Commons Act 2006, s 52, Sch 5, para 3(b).

Date in force (in relation to England for certain purposes): 31 October 2011: see SI 2011/2460, art 2(a)(ii), (b); for transitional provision see art 3 thereof.

Date in force (in relation to England for certain purposes): 12 November 2014: see SI 2014/3026, art 3(1)(g).

Date in force (in relation to England for remaining purposes): 15 December 2014: see SI 2014/3026, art 3(1)(g); for savings see art 5.

Date in force (in relation to Wales): to be appointed: see the Commons Act 2006, s 56(1).

Sub-s (5): repealed by SI 2002/794, art 5(2), Sch 2.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

See Further

See further, in relation to the disapplication of sub-s (2) in relation to a National Park for which a National Park authority is the local planning authority: the Environment Act 1995, s 69(2)(b).

Transfer of Functions

Functions of the Secretary of State and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Part III

Public Rights of Way

Ascertainment of public rights of way

53 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) [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 [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 [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 [a right of way such that the land over which the right subsists is a public path[, 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[, 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.

[(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.

[(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).

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, arts 3(a), 4.

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): words “and 57A(1)” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (2).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Sub-s (3): in para (a)(iii) words “or a restricted byway” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (3).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Sub-s (3): in para (b) words “or restricted byway” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 70(1)(a).

Date in force (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Date in force (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

Sub-s (3): in para (c)(i) words from “a right of way” to “open to all traffic” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (4).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Sub-s (3): in para (c)(i) words “, a restricted byway” in square brackets inserted by the Natural Environment and Rural Communities Act 2006, s 70(1)(b).

Date in force (in relation to England): 2 May 2006: see SI 2006/1176, art 6.

Date in force (in relation to Wales): 16 November 2006: see SI 2006/2992, art 2.

Sub-s (4): in para (a) words “, restricted byway” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (5).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Sub-ss (4A), (4B): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (6).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Sub-s (5A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 1(1), (7).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(i); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(i); for transitional provisions see art 3 thereof.

Subordinate Legislation

Rail Crossing Extinguishment and Diversion Orders, the Public Path Orders and the Definitive Maps and Statements (Amendment) Regulations 1995, SI 1995/451 (made under sub-s (6)).

[53A 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.]

NOTES

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 2.

Date in force (in relation to Wales): 21 November 2005: see SI 2005/1314, art 4(a).

Date in force (in relation to England): 18 February 2008: see SI 2008/308, art 2(b).

[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.]

NOTES

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 2.

Date in force (in relation to England): 27 September 2005: see SI 2005/2459, art 2(1)(a), (b).

Date in force (in relation to Wales): 21 November 2005: see SI 2005/1314, art 4(a).

Subordinate Legislation

Public Rights of Way (Register of Applications under section 53(5) of the Wildlife and Countryside Act 1981) (England) Regulations 2005, SI 2005/2461 (made under sub-ss (1)–(4)).

Public Rights of Way (Registers) (Wales) Regulations 2006, SI 2006/42.

54 . . .

. . .

NOTES

Amendment

Repealed by the Countryside and Rights of Way Act 2000, ss 47(1), 102, Sch 16, Pt II.

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(a), (f); for savings in relation to certain orders relating to roads used as public paths, or applications made for such orders see art 3 thereof.

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(a), (i); for transitional provisions see art 3 thereof.

55 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.

[(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.]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-ss (7), (8): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 5.

Date in force (in relation to England): 27 September 2005: see SI 2005/2459, art 2(1)(a), (c).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(ii).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the

56 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 [restricted byway], the map shall[, 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 [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.

[(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 Road 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 [or an order to which section 53A applies which includes provision made by virtue of subsection (2) of that section], means[, 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) [or (3A)], is specified in the order as the relevant date for the purposes of the order.

[(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.

[(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.

[(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.]

(5) . . .

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): in para (d) words “restricted byway” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (2)(a).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).

Sub-s (1): in para (d) words “, subject to subsection (2A),” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (2)(b).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).

Sub-s (1): in para (d) words “together with a right of way for vehicles other than mechanically propelled vehicles” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (2)(c).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).

Sub-s (1A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (3).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).

Sub-s (2): in para (a) words from “or an order” to “of that section” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (4)(a)(i).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (2): in para (a) words “, subject to subsection (2A),” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (4)(a)(ii).
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (2): in para (b) words “or (3A)” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (4)(b).
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (2A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (5).
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (3A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (6).
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (4A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 6(1), (7).
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii).
 Sub-s (5): repealed by the Countryside and Rights of Way Act 2000, ss 51, 102, Sch 5, Pt I, para 6(1), (8), Sch 16, Pt II.
 Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(f), (g)(ii).
 Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iii), (h), (j).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Public Rights of Way (Combined Orders) (England) Regulations 2008, SI 2008/442 (made under sub-s (3A)).

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, . . . 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 *section 55(3)* [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, that 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[, and for the purposes of section 57A(1),] as the definitive map and statement for that area.

[(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.

[(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.

[(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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): words omitted repealed by the Countryside and Rights of Way Act 2000, ss 51, 102, Sch 5, Pt I, para 7(1), (2), Sch 16, Pt II.

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(f), (g)(ii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(h), (k).

Sub-s (2): words “section 55(3)” in italics repealed and subsequent words in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 7(1), (3).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): to be appointed: see the Countryside and Rights of Way Act 2000, s 103(3).

Sub-s (3): words “, and for the purposes of section 57A(1),” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 7(1), (4).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): to be appointed: see the Countryside and Rights of Way Act 2000, s 103(3).

Sub-s (3A): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 7(1), (5).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): to be appointed: see the Countryside and Rights of Way Act 2000, s 103(3).

Sub-s (5A): inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(7).

Sub-ss (6A)–(6C): inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 7(1), (6).

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(ii).

Date in force (in relation to Wales): to be appointed: see the Countryside and Rights of Way Act 2000, s 103(3).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993, SI 1993/12 (made under sub-ss (1), (2)).

Public Rights of Way (Combined Orders) (England) Regulations 2008, SI 2008/442 (made under sub-ss (1), (2), (6A)).

Public Rights of Way (Combined Orders) (England) (Amendment) Regulations 2010, SI 2010/2127 (made under sub-ss (1), (6A)).

[57A 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).]

NOTES

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 8.

Date in force (in relation to England): 13 February 2004: see SI 2004/292, art 2(d)(i).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(i).

58 Application of ss 53 & 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 be 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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

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 [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 [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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): words “or a restricted byway” in square brackets inserted by SI 2006/1177, reg 2, Schedule, Pt I.

Date in force (in relation to England): 2 July 2006 (being two months after the date on which the Countryside and Rights of Way Act 2000, ss 47–50 came into force in relation to England): see SI 2006/1177, reg 1(3) and SI 2006/1172, art 2(a)–(d).

Date in force (in relation to Wales): 11 July 2006 (being two months after the date on which the Countryside and Rights of Way Act 2000, ss 47–50 came into force in relation to Wales): see SI 2006/1177, reg 1(5) and SI 2006/1279, art 2(a)–(d).

Sub-s (1): maximum fine converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

60 < . . . >

< . . . >

NOTES

Amendment

Repealed by the Road Traffic Regulation Act 1984, s 146, Sch 14.

61 < . . . >

< . . . >

NOTES

Amendment

Repealed by the Rights of Way Act 1990, s 6(4).

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[, 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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Words “, restricted byway” in square brackets inserted by SI 2006/1177, reg 2, Schedule, Pt I.

Date in force (in relation to England): 2 May 2006 (being the date on which the Countryside and Rights of Way Act 2000, ss 47–50 came into force in relation to England): see SI 2006/1177, reg 1(2) and SI 2006/1172, art 2(a)–(d).

Date in force (in relation to Wales): 11 May 2006 (being the date on which the Countryside and Rights of Way Act 2000, ss 47–50 came into force in relation to Wales): see SI 2006/1177, reg 1(4) and SI 2006/1279, art 2(a)–(d).

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

64 Publication of dedication of footpaths and bridleways

...

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1983: see SI 1983/20, art 3(a).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

This section inserts the Highways Act 1980, s 25(6).

65 Signposting of byways open to all traffic

...

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

This section amends the Countryside Act 1968, ss 2 27.

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;

[“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;

["surveying authority", in relation to any area, means the county council, [county borough council,] metropolitan district council or London borough council whose area includes that area.]

(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.

(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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Extent

This Part does not extend to Scotland: see s 74(5).

Amendment

Sub-s (1): definition "restricted byway" inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 9.

Date in force (in relation to England): 2 May 2006: see SI 2006/1172, art 2(g)(iii).

Date in force (in relation to Wales): 11 May 2006: see SI 2006/1279, art 2(f)(iv).

Sub-s (1): definition "surveying authority" substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Sub-s (1): in definition "surveying authority" words "county borough council," in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(8).

Part IV Miscellaneous and General

[66A 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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 54(1).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

[66B Application of Part 1 to Crown: Scotland]

[(1) Subject to subsections (2) to (5), Part 1 (including regulations and orders made under it) bind the Crown.

(2) No contravention by the Crown of any provision made by or under Part 1 makes the Crown criminally liable but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), any provision made by or under Part 1 applies to persons in the public service of the Crown as it applies to other persons.

(4) A species control order may be made under section 14D in relation to Crown land only with the consent of the appropriate authority.

(5) The powers conferred by sections 14M and 19ZC are exercisable in relation to Crown land only with the consent of the appropriate authority.

(6) In this section, “Crown land” means an interest in land which—

- (a) belongs to Her Majesty in right of the Crown;
- (b) belongs to Her Majesty in right of Her private estates;
- (c) belongs to an office-holder in the Scottish Administration or is held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration; or
- (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

(7) In this section, the “appropriate authority”—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
- (b) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration who or, as the case may be, government department which manages the land;
- (c) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers;
- (d) in the case of land belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration, means that office-holder;
- (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that government department.

(8) The references in subsections (6)(b) and (7)(c) to Her Majesty’s private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c 37).

(9) It is for the Scottish Ministers to determine any question which arises as to who is the appropriate

authority in relation to any land, and their decision is final.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 41(1), (3).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(i).

67 Application to Crown [67 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.

[(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 29, 34, . . . 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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Section heading: substituted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 54(2).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-ss (1A), (1B): inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), Sch 9, para 6.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): reference to "29," in italics repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt III.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (2): reference omitted repealed by the Marine and Coastal Access Act 2009, s 321, Sch 22, Pt 3 and the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(c).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Wales except in respect of marine conservation zones): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i), (4).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(c).

Modification

The Countryside and Rights of Way Act 2000, s 49(6) provides that this section shall have effect as if ss 47, 48, 49 and 50 of the 2000 Act were included in Pt III of this Act.

68 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; and 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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Subordinate Legislation

Wildlife and Countryside (Isles of Scilly) Order 1983, SI 1983/512.

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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

[69A Offences by Scottish partnerships etc]

[Where a Scottish partnership or other unincorporated association is guilty of an offence under Part 1 of 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—

- (a) in relation to a Scottish partnership, any partner or any person who was purporting to act in such capacity;
- (b) in relation to an unincorporated association other than a Scottish partnership, any person who is concerned in the management or control of the association or any person who was purporting to act in any such capacity,

he (as well as the partnership or, as the case may be, other unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 23.

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(e).

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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

[70A Service of notices]

[(1) Subject to subsection (2), [section 329 of the Town and Country Planning Act 1990] and [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) [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.

[(2A) Subsection (1)(cc) of the said section 271 shall not apply to a notice required to be served under section 14G.

(2B) Subsection (2) of the said section 271 shall not apply to a notice required to be served under section 14D(5)(a).]

(3) This section shall not affect the operation of paragraph 2(4) of Schedule 11 or paragraph 3(4) of Schedule 15.]

NOTES

Amendment

Inserted by the Wildlife and Countryside (Service of Notices) Act 1985, s 1.

Sub-s (1): first words in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 54(2), final words in square brackets substituted by the Planning (Consequential Provisions) Act 1997, s 4, Sch 2, para 34(2).

Sub-s (2): words in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 54(2).

Sub-ss (2A), (2B): inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (7).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

[70B 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);
 - (j) section 28D(5) (withdrawal or confirmation of denotification);
 - (k) section 28J(3) (notice of proposed management scheme);
 - (l) 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 Natural Resources Body for Wales].]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 57.

Date in force: 31 May 2006: see SI 2006/1382, art 2.

Sub-s (7): in para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 169, 179.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

71 General Interpretation

[(1)] In this Act

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949;

“the 1968 Act” means the Countryside Act 1968;

[“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;

< . . . >.

[(2)] For the avoidance of doubt it is hereby declared that in this Act “plants” include fungi and algae.]

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

Sub-s (1): numbered as such, in relation to England and Wales (including their adjacent territorial waters), by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 97(1), (2), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): definition “the Broads” inserted by the Norfolk and Suffolk Broads Act 1988, s 2(5), (6), Sch 3, Pt I.

Sub-s (1): definition “statutory maximum” (omitted) repealed by the Statute Law (Repeals) Act 1993, s 1, Sch 1, Pt XIV.

Sub-s (2): inserted, in relation to England and Wales (including their adjacent territorial waters), by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 97(1), (3), (4).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

72 Minor amendments

(1)–(11) . . .

(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.

(13), (14) . . .

NOTES

Initial Commencement

Specified date

Sub-ss (1)–(3), (5), (7)–(13): Specified date: 30 November 1981: see s 74(2).

To be appointed

Sub-ss (4), (6), (14): To be appointed: see s 74(3).

Appointment

Sub-ss (4), (6), (14): Appointment: 28 September 1982: see SI 1982/1217, art 2(b).

Amendment

Sub-s (1): repealed by the Statute Law (Repeals) Act 1989.

Sub-ss (2)–(9), (11), (13), (14): amend the Hill Farming Act 1946, ss 20(2), 27, the Agriculture (Scotland) Act 1948, s 39, the National Parks and Access to the Countryside Act 1949, s 11(1), the Public Health 1961, s 74(4), the Countryside Act 1968, ss 2(8), 15(1), 37, the Highways Act 1980, ss 31(10), 136(4), 200 and the Licensing Act 1981, s 4(5).

Sub-s (10): repealed by the Environment Act 1995, s 120, Sch 24.

73 Repeals and savings

(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.

(4) . . .

NOTES

Initial Commencement

Specified date

Sub-s (1): Specified date (for certain purposes): 30 November 1981: see s 74(2).

Sub-ss (2)–(4): Specified date: 30 November 1981: see s 74(2).

To be appointed

Sub-s (1): To be appointed (for remaining purposes): see s 74(3).

Appointment

Sub-s (1): Appointment (for certain purposes): 16 February 1982: see SI 1982/44, art 2.

Sub-s (1): Appointment (for certain purposes): 1 April 1982: see SI 1982/327, art 2.

Sub-s (1): Appointment (for certain purposes): 28 September 1982: see SI 1982/1217, art 2(c).

Sub-s (1): Appointment (for remaining purposes): 28 February 1983: see SI 1983/20, art 3(b).

Amendment

Sub-s (4): repealed by the Badgers Act 1992, s 15(2), Schedule.

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 provisions 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.

[(5A) . . .]

(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.

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see sub-s (2) above.

Amendment

Sub-s (5A): inserted by the Countryside and Rights of Way Act 2000, s 76(1), Sch 10, Pt I, para 2.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Sub-s (5A): repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Subordinate Legislation

Wildlife and Countryside Act 1981 (Commencement No 1) Order 1982, SI 1982/44 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Commencement No 2) Order 1982, SI 1982/327 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Commencement No 3) Order 1982, SI 1982/990 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Commencement No 4) Order 1982, SI 1982/1136 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Commencement No 5) Order 1982, SI 1982/1217 (made under sub-s (3)).

Wildlife and Countryside Act 1981 (Commencement No 6) Order 1983, SI 1983/20 (made under sub-ss (3), (4)).

Wildlife and Countryside Act 1981 (Commencement No 7) Order 1983, SI 1983/87 (made under sub-s (3)).

[SCHEDULE ZA1 BIRDS WHICH RE-USE THEIR NESTS]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act

2006, s 47(1), (3).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

[Section 1]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 47(1), (3).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

<i>[Common name]</i>	<i>Scientific name</i>
Eagle, Golden	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Osprey	<i>Pandion haliaetus</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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Natural Environment and Rural Communities Act 2006, s 47(1), (3).

Date in force: 31 May 2006: see SI 2006/1382, art 2.

[SCHEDULE A1 PROTECTED NESTS AND NEST SITES: BIRDS]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 24.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

[Section 1]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 24.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

[Common name]	Scientific name
[Eagle, Golden]	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 24.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Entry relating to "Eagle, Golden" inserted by SSI 2013/31, art 2.

Date in force: 16 March 2013: see SSI 2013/31, art 1(1).

SCHEDULE 1 BIRDS WHICH ARE PROTECTED BY SPECIAL PENALTIES

Sections 1, 2, 4, 6, 19, 22

Part I At all times

[FTB

<i>Common name</i>	<i>Scientific name</i>
Avocet	<i>Recurvirostra avosetta</i>
Bee-eater	<i>Merops apiaster</i>
Bittern	<i>Botaurus stellaris</i>
Bittern, Little	<i>Ixobrychus minutus</i>
Bluethroat	<i>Luscinia svecica</i>
Brambling	<i>Fringilla montifringilla</i>
Bunting, Cirl	<i>Emberiza cirlus</i>
Bunting, Lapland	<i>Calcarius lapponicus</i>
Bunting, Snow	<i>Plectrophenax nivalis</i>
Buzzard, Honey	<i>Pernis apivorus</i>
[Capercaillie	<i>Tetrao urogallus</i>]
Chough	<i>Pyrrhocorax pyrrhocorax</i>
Corncrake	<i>Crex crex</i>
Crake, Spotted	<i>Porzana porzana</i>
Crossbills (all species)	<i>Loxia</i>
Curlew, Stone	<i>Burhinus oedicnemus</i>
Divers (all species)	<i>Gavia</i>
Dotterel	<i>Charadrius morinellus</i>

Duck, Long-tailed	<i>Clangula hyemalis</i>
Eagle, Golden	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Falcon, Gyr	<i>Falco rusticolus</i>
Fieldfare	<i>Turdus pilaris</i>
Firecrest	<i>Regulus ignicapillus</i>
Garganey	<i>Anas querquedula</i>
Godwit, Black-tailed	<i>Limosa limosa</i>
Goshawk	<i>Accipiter gentilis</i>
Grebe, Black-necked	<i>Podiceps nigricollis</i>
Grebe, Slavonian	<i>Podiceps auritus</i>
Greenshank	<i>Tringa nebularia</i>
Gull, Little	<i>Larus minutus</i>
Gull, Mediterranean	<i>Larus melanocephalus</i>
Harriers (all species)	<i>Circus</i>
Heron, Purple	<i>Ardea purpurea</i>
Hobby	<i>Falco subbuteo</i>
Hoopoe	<i>Upupa epops</i>
Kingfisher	<i>Alcedo atthis</i>
Kite, Red	<i>Milvus milvus</i>
Merlin	<i>Falco columbarius</i>
Oriole, Golden	<i>Oriolus oriolus</i>
Osprey	<i>Pandion haliaetus</i>
Owl, Barn	<i>Tyto alba</i>
Owl, Snowy	<i>Nyctea scandiaca</i>
Peregrine	<i>Falco peregrinus</i>
Petrel, Leach's	<i>Oceanodroma leucorhoa</i>

Phalarope, Red-necked	<i>Phalaropus lobatus</i>
Plover, Kentish	<i>Charadrius alexandrinus</i>
Plover, Little Ringed	<i>Charadrius dubius</i>
Quail, Common	<i>Coturnix coturnix</i>
Redstart, Black	<i>Phoenicurus ochruros</i>
Redwing	<i>Turdus iliacus</i>
Rosefinch, Scarlet	<i>Carpodacus erythrinus</i>
Ruff	<i>Philomachus pugnax</i>
Sandpiper, Green	<i>Tringa ochropus</i>
Sandpiper, Purple	<i>Calidris maritima</i>
Sandpiper, Wood	<i>Tringa glareola</i>
Scaup	<i>Aythya marila</i>
Scoter, Common	<i>Melanitta nigra</i>
Scoter, Velvet	<i>Melanitta fusca</i>
Serin	<i>Serinus serinus</i>
Shorelark	<i>Eremophila alpestris</i>
Shrike, Red-backed	<i>Lanius collurio</i>
Spoonbill	<i>Platalea leucorodia</i>
Stilt, Black-winged	<i>Himantopus himantopus</i>
Stint, Temminck's	<i>Calidris temminckii</i>
Swan, Bewick's	<i>Cygnus bewickii</i>
Swan, Whooper	<i>Cygnus cygnus</i>
Tern, Black	<i>Chlidonias niger</i>
Tern, Little	<i>Sterna albifrons</i>
Tern, Roseate	<i>Sterna dougallii</i>
Tit, Bearded	<i>Panurus biarmicus</i>
Tit, Crested	<i>Parus cristatus</i>

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
[FTE]	

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry relating to "Capercaillie" inserted by SSI 2001/337, reg 2(1), (3).

Date in force: 4 November 2001: see SSI 2001/337, reg 1.

Part II During the Close Season

[FTB]

<i>Common name</i>	<i>Scientific name</i>
Goldeneye	Bucephala clangula
Goose, Greylag (in Outer, Hebrides, Caithness, Sutherland and Wester	Anser anser
Ross only) Pintail	Anas acuta

[FTE]

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

**[SCHEDULE 1A
BIRDS WHICH ARE PROTECTED FROM HARASSMENT]**

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 25.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

[Common name	Scientific name
[Eagle, Golden	Aquila chrysaetos]
Eagle, White-tailed	Haliaeetus albicilla]
[Harrier, Hen	Circus cyaneus]
[Kite, Red	Milvus milvus]

NOTES

Amendment

Inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, paras 1, 25.

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

Entry relating to "Eagle, Golde" inserted by SSI 2013/31, art 3.

Date in force: 16 March 2013: see SSI 2013/31, art 1(1).

Entry relating to "Harrier, Hen" inserted by SSI 2013/31, art 3.

Date in force: 16 March 2013: see SSI 2013/31, art 1(1).

Entry relating to "Kite, Red" inserted by SSI 2013/31, art 3.

Date in force: 16 March 2013: see SSI 2013/31, art 1(1).

**SCHEDULE 2
BIRDS WHICH MAY BE KILLED OR TAKEN**

Sections 2, 3, 22

Part I
Outside the Close Season

[FTB

Common name	Scientific name
<i>Capercaillie</i>	<i>Tetrao urogallus</i>
Coot	<i>Fulica atra</i>
Duck, Tufted	<i>Aythya fuligula</i>
Gadwall	<i>Anas strepera</i>

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
[Grouse, Black	Tetrao tetrix
Grouse, Red	Lagopus lagopus scoticus]
Mallard	Anas platyrhynchos
Moorhen	Gallinula chloropus
[Partridge, Grey	Perdix perdix
Partridge, Red-legged	Alectoris rufa
Pheasant, Common	Phasianus colchicus]
Pintail	Anas acuta
Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
[Ptarmigan	Lagopus mutus]
Shoveler	Anas clypeata
Snipe, Common	Gallinago gallinago
Teal	Anas crecca
Wigeon	Anas penelope
Woodcock	Scolopax rusticola
[FTE	

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry relating to “Capercaillie” repealed, in relation to Scotland, by SSI 2001/337, reg 2(1), (4).

Date in force: 4 November 2001: see SSI 2001/337, reg 1(1).

Entries relating to “Grouse, Black” and “Grouse, Red” inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (7)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Entries relating to “Partridge, Grey”, “Partridge, Red-legged” and “Pheasant, Common” inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (7)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Entry relating to “Ptarmigan” inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (7)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

[Part IA

Exception: Birds Included in Part I which may not be Killed or Taken on Sundays or Christmas Day]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (8).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

[Common name	Scientific name
Coot	<i>Fulica atra</i>
Duck, Tufted	<i>Aythya fuligula</i>
Gadwall	<i>Anas strepera</i>
Goldeneye	<i>Bucephala clangula</i>
Goose, Canada	<i>Branta canadensis</i>
Goose, Greylag	<i>Anser anser</i>
Goose, Pink-footed	<i>Anser brachyrhynchus</i>
Mallard	<i>Anas platyrhynchos</i>
Moorhen	<i>Gallinula chloropus</i>
Pintail	<i>Anas acuta</i>
Plover, Golden	<i>Pluvialis apricaria</i>
Pochard	<i>Aythya ferina</i>
Shoveler	<i>Anas clypeata</i>
Snipe, Common	<i>Gallinago gallinago</i>

Teal	Anas crecca
Widgeon	Anas penelope
Woodcock	Scolopax rusticola]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 3(1), (8).
Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(b).

Part II

< . . . >

< . . . >

NOTES

Amendment

Repealed by SI 1992/3010, art 2.

SCHEDULE 3

BIRDS WHICH MAY BE SOLD

Sections 6, 22

Part I

Alive at all Times if Ringed and Bred in Captivity

[FTB

<i>Common name</i>	<i>Scientific name</i>
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
[FTE]	

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

[Part IA

Alive if Taken in Captivity or by Certain Persons Outside Close Season or During First 28 Days of Close Season]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

[Common name

Scientific name

Grouse, Red	Lagopus lagopus scoticus
Mallard	Anas platyrhynchos
Partridge, Grey	Perdix perdix
Partridge, Red-legged	Alectoris rufa
Pheasant, Common	Phasianus colchicus]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Part II
Dead at all Times

[FTB

Common name

Scientific name

...

< ... >

Woodpigeon

Columba palumbus

[FTE

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry omitted repealed by SI 1992/3010, art 3.

[Part IIA
Dead if Killed Outside Close Season by Certain Persons]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

[Common name

Scientific name

Coot

Fulica atra

Duck, Tufted

Aythya fuligula

Grouse, Black

Tetrao tetrix

Grouse, Red

Lagopus lagopus scoticus

Mallard

Anas platyrhynchos

Partridge, Grey

Perdix perdix

Partridge, Red-legged

Alectoris rufa

Pheasant, Common

Phasianus colchicus

Pintail

Anas acuta

Plover, Golden	<i>Pluvialis apricaria</i>
Pochard	<i>Aythya ferina</i>
Ptarmigan	<i>Lagopus mutus</i>
Shoveler	<i>Anas clypeata</i>
Snipe, Common	<i>Gallinago gallinago</i>
Teal	<i>Anas crecca</i>
Wigeon	<i>Anas penelope</i>
Woodcock	<i>Scolopax rusticola</i>

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(b).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Part III

Dead from 1st September to 28th February

[FTB

Common name	Scientific name
<i>Capercaillie</i>	<i>Tetrao urogallus</i>
<i>Coot</i>	<i>Fulica atra</i>
<i>Duck, Tufted</i>	<i>Aythya fuligula</i>
<i>Mallard</i>	<i>Anas platyrhynchos</i>
<i>Pintail</i>	<i>Anas acuta</i>
<i>Plover, Golden</i>	<i>Pluvialis apricaria</i>
<i>Pochard</i>	<i>Aythya ferina</i>
<i>Shoveler</i>	<i>Anas clypeata</i>
<i>Snipe, Common</i>	<i>Gallinago gallinago</i>
<i>Teal</i>	<i>Anas crecca</i>
<i>Wigeon</i>	<i>Anas penelope</i>
<i>Woodcock</i>	<i>Scolopax rusticola</i>

[FTE

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry relating to "Capercaillie" repealed, in relation to Scotland, by SSI 2001/337, reg 2(1), (5).

Date in force: 4 November 2001: see SSI 2001/337, reg 1(1).

Entry relating to "Coot" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Duck, Tufted" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Mallard" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Pintail" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Plover, Golden" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Pochard" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Shoveler" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Snipe, Common" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Teal" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Widgeon" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

Entry relating to "Woodcock" repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 5(1), (4)(c).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(c).

SCHEDULE 4

BIRDS WHICH MUST BE REGISTERED AND RINGED IF KEPT IN CAPTIVITY

Sections 7, 22

[FTB

[Common name

Scientific name

...	...
...	...
...	...
Buzzard, Honey	Pernis apivorus
...	...
Eagle, Golden	Aquila chrysaetos
...	...
...	...
...	...
Eagle, White-tailed	Haliaeetus albicilla
...	...
...	...
...	...
...	...
Falcon, Peregrine	Falco peregrinus
...	...
...	...
...	...
...	...
Goshawk	Accipiter gentilis
...	...
Harrier, Marsh	Circus aeruginosus
Harrier, Montagu's	Circus pygargus
...	...
...	...
...	...
...	...

• • •

• • •

...

• • •

...

■ ■ ■

• • •

Falco columbarius

• • •

Pandion haliaetus

■ ■ ■

• • •

• • •

• • •

• • •

...

■ ■ ■

• • •

• • •

• • •

• • •

• • •

• • •

• • •

• • •

• • •

• • •

Entry "Harrier, Hen" (omitted) repealed in relation to England by SI 2008/2356, art 3(1), (2), in relation to Wales by SI 2009/780, art 2(1), (2) and in relation to Scotland by SSI 2009/418, art 2(1).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

Entries "Hawk, Galapagos", "Hawk, Grey-backed", "Hawk, Hawaiian", "Hawk, Ridgway's", "Hawk, White-necked", "Hawk-Eagle, Wallace's", "Hobby", "Honey-Buzzard, Black", "Kestrel, Lesser", "Kestrel, Mauritius" and "Kite, Red" (omitted) repealed in relation to England by SI 2008/2356, art 3(1), (2), in relation to Wales by SI 2009/780, art 2(1), (2) and in relation to Scotland by SSI 2009/418, art 2(1).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

Entry "Oriole, Golden" (omitted) repealed in relation to England by SI 2008/2356, art 3(1), (2), in relation to Wales by SI 2009/780, art 2(1), (2) and in relation to Scotland by SSI 2009/418, art 2(1).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

Entries "Redstart, Black", "Redwing", "Sea-Eagle, Pallas", "Sea-Eagle, Steller's", "Serin", "Serpent-Eagle, Andaman", "Serpent-Eagle, Madagascar", "Serpent-Eagle, Mountain", "Shorelark" and "Shrike, Red-backed" (omitted) repealed in relation to England by SI 2008/2356, art 3(1), (2), in relation to Wales by SI 2009/780, art 2(1), (2) and in relation to Scotland by SSI 2009/418, art 2(1).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

Entries "Sparrowhawk, New Britain", "Sparrowhawk, Gundlach's", "Sparrowhawk, Imitator", "Sparrowhawk, Small", "Tit, Bearded", "Tit, Crested", "Warbler, Cetti's", "Warbler, Dartford", "Warbler, Marsh", "Warbler, Savi's", "Woodlark" and "Wryneck" (omitted) repealed in relation to England by SI 2008/2356, art 3(1), (2), in relation to Wales by SI 2009/780, art 2(1), (2) and in relation to Scotland by SSI 2009/418, art 2(1).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

Final words omitted repealed in relation to England by SI 2008/2356, art 3(1), (3), in relation to Wales by SI 2009/780, art 2(1), (3) and in relation to Scotland by SSI 2009/418, art 2(2).

Date in force (in relation to England): 1 October 2008: see SI 2008/2356, art 1.

Date in force (in relation to Wales): 23 April 2009: see SI 2009/780, art 1.

Date in force (in relation to Scotland): 21 December 2009: see SSI 2009/418, art 1(1).

SCHEDULE 5

ANIMALS WHICH ARE PROTECTED [UNDER SECTION 9]

NOTES

Amendment

Schedule heading: words "under section 9" in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (4).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

Sections 9, 10, 22, 24

[FTB

Common name

Scientific name

Adder (in respect of section [9(1)(in part),] 9(5) only)

Vipera berus

[Allis shad (in respect of section 9(1) and (4)(a) only]	<i>Alosa alosa</i>]
[Atlantic Stream Crayfish (in respect of section 9(1) (in part), (5), only]	<i>Austropotomobius pallipes</i>]
[Anemone, Ivell's Sea]	<i>Edwardsia ivelli</i>]
[Anemone, Startlet Sea]	<i>Nematosella vectensis</i>]
[Apus]	<i>Triops cancriformis</i>]
<i>Bats, Horseshoe (all species [but in respect of section 9(4)(b) and (c) and (5) only])</i>	<i>Rhinolophidae</i>
<i>Bats, Typical (all species [but in respect of section 9(4)(b) and (c) and (5) only])</i>	<i>Vespertilionidae</i>
[Beetle]	<i>Graphoderus zonatus</i>]
[Beetle]	<i>Hypebaeus flavipes</i>]
[Beetle]	<i>Paracymus aeneus</i>]
[Beetle, Lesser Silver Water]	<i>Hydrochara caraboides</i>]
[Beetle, Mire Pill (in respect of section 9(4)(a) only]	<i>Curimopsis nigrita</i>]
Beetle, Rainbow Leaf]	<i>Chrysolina cerealis</i>
[Beetle, Stag (in respect of section 9(5) only]	<i>Lucanus cervus</i>]
[Beetle, Violet Click]	<i>Limoniscus violaceus</i>]
Burbot]	<i>Lota Lota</i>
...	...
Butterfly, Heath Fritillary]	<i>Mellicta athalia</i> (otherwise known as <i>Melitaea athalia</i>)
<i>Butterfly, Large Blue [(in respect of section 9(4)(b) and (c) and (5) only)]</i>	<i>Maculinea arion</i>
Butterfly, Swallowtail]	<i>Papilio machaon</i>
[Butterfly, Northern Brown Argus]	<i>Arícia artaxerxes</i>]
[Butterfly, Adonis Blue]	<i>Lysandra bellargus</i>]

[Butterfly, Chalkhill Blue	Lysandra coridon]
[Butterfly, Silver-studded Blue	Plebejus argus]
[Butterfly, Small Blue	Cupido minimus]
[Butterfly, Large Copper	Lycaena dispar]
[Butterfly, Purple Emperor	Apatura iris]
[Butterfly, Duke of Burgundy	Hamearis lucina
[Butterfly, Glanville Fritillary	Melitaea cinxia]
[Butterfly, High Brown Fritillary	Argynnis adippe]
[Butterfly, Marsh Fritillary	Eurodryas aurinia]
[Butterfly, Pearl-bordered Fritillary	Boloria euphrosyne]
[Butterfly, Black Hairstreak	Strymonidia pruni]
[Butterfly, Brown Hairstreak	Thecla betulae]
[Butterfly, White Letter Hairstreak	Stymonida w-album]
[Butterfly, Large Heath	Coenonympha tullia]
[Butterfly, Mountain Ringlet	Erebia epiphron]
[Butterfly, Chequered Skipper	Carterocephalus palaemon]
[Butterfly, Lulworth Skipper	Thymelicus acteon]
[Butterfly, Silver Spotted Skipper	Hesperia comma]
[Butterfly, Large Tortoiseshell	Nymphalis polychloros]
[Butterfly, Wood White	Leptidea sinapis]
[Cat, Wild [(in respect of section 9(4)(b) and (c) and (5) only)]	<i>Felis silvestris</i>]
[Cicada, New Forest	Cicadetta montana]
Cricket, Field	Gryllus campestris]
Cricket, Mole	Gryllotalpa gryllotalpa]
[Damselfly, Southern	Coenagrion mercuriale]
...	...
...	...

[< . . . >	< . . . >]
[Dolphins (all species but in respect of section 9(4A) and (5) only)	Cetacea]
[<i>Dormouse</i> [(in respect of section 9(4)(b) and (c) and (5) only)]	<i>Muscardinus avellanarius</i>]
Dragonfly, Norfolk Aeshna	Aeshna isosceles
Frog, Common (in respect of section 9(5) only)	Rana temporaria
[Frog, Pool (Northern Clade) (in respect of section 9(4)(b) and (c) only and with respect to England only)	Pelophylax lessonae]
[Goby, Couch's	Gobius couchii]
[Goby, Giant	Gobius cobitis]
Grasshopper, Wart-biter	Decticus verrucivorus
[Hatchet Shell, Northern	Thyasira gouldi]
[Hydroid, Marine	Clavopsella navis]
[<i>Lagoon Snail</i>	<i>Paludinella littorina</i>]
[Lagoon Snail, De Folin's	Caecum armoricum]
[Lagoon Worm, Tentacled [(in respect of section 9(4)(a) only)]	Alkmaria romijni]
[Leech, Medicinal	Hirudo medicinalis]
<i>Lizard, Sand</i> [(in respect of section 9(4)(b) and (c) and (5) only)]	<i>Lacerta agilis</i>
Lizard, Viviparous (in respect of section 9(1) (in part), (5) only)	Lacerta vivipara
[Marten, Pine	Martes martes]
[Mat, Trembling Sea	Victorella pavidia]
Moth, Barberry Carpet	Pareulype berberata
Moth, Black-veined	Siona lineata (otherwise known as Idaea lineata)
<i>Moth, Essex Emerald</i>	<i>Thetidia smaragdaria</i>
[Moth, Fiery Clearwing	Bembecia chrysidiformis]

[Moth, Fisher's Estuarine [(in respect of section 9(4)(b) and (c) and (5) only)]	Gortyna borelii]
Moth, New Forest Burnet	Zygaena viciae
Moth, Reddish Buff	Acosmetia caliginosa
[Moth, Slender Scotch Burnet (in respect of section 9(5) only)	Zygaena loti subspecies scotica]
[Moth, Sussex Emerald	Thalera fimbrialis]
[Moth, Talisker Burnet (in respect of section 9(5) only)	Zygaena lonicerae subspecies jocelynae]
[.]
[Mussel, Fan (in respect of section 9(1), (2) and (5) only)	Atrina fragilis]
[Mussel, Freshwater Pearl	Margaritifera margaritifera]
[<i>Newt, Great Crested or Warty (in respect of section 9(4)(b) and (c) and (5) only)</i>]	<i>Triturus cristatus</i>
Newt, Palmate (in respect of section 9(5) only)	Triturus helveticus
Newt, Smooth (in respect of section 9(5) only)	Triturus vulgaris
<i>Otter, Common [(in respect of section 9(4)(b) and (c) and (5) only)]</i>	<i>Lutra lutra</i>
[< . . . >	< . . . >]
[Porpoises (all species but in respect of section 9(5) only)	Cetacea]
[Sandworm, Lagoon	Armandia cirrhosa]
[Sea Fan, Pink (in respect of section 9(1), 9(2) and 9(5) only)	Eunicella verrucosa]
Sea Slug, Lagoon	Tenellia adspersa]
[Seahorse, Short Snouted (with respect to England [and Wales] only)	Hippocampus hippocampus]
[Seahorse, Spiny (with respect to England [and Wales] only)	Hippocampus guttulatus]

[Shad, Twaite (in respect of section 9(4)(a) [section 9(1) and (4)(a)] only)	<i>Alosa fallax</i>
[Shark, Angel (<i>in respect of section 9(1) only and with respect to England [and Wales], other than the excluded waters, only</i>) [(in respect of section 9(1), (2) and (5) only)]	<i>Squatina squatina</i>
[Shark, Basking	<i>Cetorhinus maximus</i>
[Shrimp, Fairy	<i>Chirocephalus diaphanus</i>
[Shrimp, Lagoon Sand [(in respect of section 9(4)(a) only)]	<i>Gammarus insensibilis</i>
[Skate, White (in respect of section 9(1), (2) and (5) only)	<i>Rostroraja alba</i>
Slow-worm (in respect of section 9(1) (in part), (5), only)	<i>Anguis fragilis</i>
...	...
Snail, Glutinous	<i>Myxas glutinosa</i>
[Snail, Roman (in respect of section 9(1), (2) and (5) only and with respect to England [and Wales] only)	<i>Helix pomatia</i>
Snail, Sandbowl	<i>Catinella arenaria</i>
Snake, Grass (in respect of section 9(1) (in part), (5) only)	<i>Natrix helvetica</i>
<i>Snake, Smooth [(in respect of section 9(4)(b) and (c) and (5) only)]</i>	<i>Coronella austriaca</i>
Spider, Fen Raft	<i>Dolomedes plantarius</i>
Spider, Ladybird	<i>Eresus niger</i>
Squirrel, Red	<i>Sciurus vulgaris</i>
[Sturgeon [(in respect of section 9(4)(b) and (c) and (5) only)]	<i>Acipenser sturio</i>
Toad, Common (in respect of section 9(5) only)	<i>Bufo bufo</i>
<i>Toad, Natterjack [(in respect of section 9(4)(b) and (c) and (5) only)]</i>	<i>Bufo calamita</i>
[Turtle, Flatback	<i>Natator depressus</i>

[Turtle, Green Sea (in respect of section 9(4)(b) and (c) and (5) only)	Chelonia mydas]
[Turtle, Hawksbill (in respect of section 9(4)(b) and (c) and (5) only)	Eretmochelys imbricate]
[Turtle, Kemp's Ridley Sea (in respect of section 9(4)(b) and (c) and (5) only)	Lepidochelys kempii]
[Turtle, Leatherback Sea (in respect of section 9(4)(b) and (c) and (5) only)	Dermochelys coriacea]
[Turtle, Loggerhead Sea (in respect of section 9(4)(b) and (c) and (5) only)	Caretta caretta]
[.]
[Turtle, Olive Ridley	Lepidochelys olivacea]
[Vendace	Coregonus albula]
[Vole, Water < . . . >	Arvicola terrestris]
[Walrus	Odobenus rosmarus]
[Whale (all species [but in respect of section 9(4A) and (5) only])	Cetacea]
[Whitefish	Coregonus lavaretus]

[FTE

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.

[. . .]

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

In entry "Adder" words "9(1) (in part)," in square brackets inserted by SI 1991/367, art 2.

Entry "Allis shad" inserted by SI 1991/367, art 2.

Entry "Allis Shad" substituted by SI 1998/878, art 2(2).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Atlantic Stream Crayfish" inserted by SI 1988/288, art 2.

Entry "Anemone, Ivell's Sea" inserted by SI 1988/288, art 2.

Entry "Anemone, Startlet Sea" inserted by SI 1988/288, art 2.

Entry "Apus" inserted by SI 1988/288, art 2.

Entry "Bats, Horseshoe" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Bats, Horseshoe" words "but in respect of section 9(4)(b) and (c) and (5) only" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(b).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Bats, Typical" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Bats, Typical" words "but in respect of section 9(4)(b) and (c) and (5) only" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(c).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Beetle (Graphoderus zonatus)" inserted by SI 1992/2350, art 2.

Entry "Beetle (Hypebaeus flavipes)" inserted by SI 1992/2350, art 2.

Entry "Beetle (Paracymus aeneus)" inserted by SI 1992/2350, art 2.

Entry "Beetle, Lesser Silver Water" inserted by SI 1992/2350, art 2.

Entry "Beetle, Mire Pill" inserted by SI 1992/2350, art 2.

Entry "Beetle, Stag" inserted by SI 1998/878, art 2(1).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Beetle, Violet Click" inserted by SI 1988/288, art 2.

Entry "Butterfly, Chequered Skipper" (omitted) repealed by SI 1988/288, art 2.

Entry "Butterfly, Large Blue" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Butterfly, Large Blue" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Butterfly, Northern Brown Argus" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Adonis Blue" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Chalkhill Blue" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Silver-studded Blue" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Small Blue" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Large Copper" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Large Copper" substituted for all purposes by SI 1998/878, art 2(2).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Butterfly, Purple Emperor" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Duke of Burgundy" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Glanville Fritillary" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, High Brown Fritillary" substituted by SI 1992/2350, art 2.

Entry "Butterfly, Marsh Fritillary" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Marsh Fritillary" substituted for all purposes by SI 1998/878, art 2(2).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Butterfly, Pearl-bordered Fritillary" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Black Hairstreak" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Brown Hairstreak" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, White Letter Hairstreak" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Large Heath" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Mountain Ringlet" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Chequered Skipper" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Lulworth Skipper" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Silver Spotted Skipper" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Large Tortoiseshell" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Butterfly, Wood White" inserted for the purposes of s 9(5) by SI 1989/906, art 2.

Entry "Cat, Wild" inserted by SI 1988/288, art 2.

Entry "Cat, Wild" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

 Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Cat, Wild" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Cicada, New Forest" inserted by SI 1988/288, art 2.

Entry "Damselfly, Southern" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Dolphin, Bottle-nosed" (omitted) repealed by SI 2007/1843, reg 7(1), (7)(g).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Dolphin, Common" (omitted) repealed by SI 2007/1843, reg 7(1), (7)(g).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

First entry "Dolphins" (omitted) inserted by SI 1988/288, art 2.

First entry "Dolphins" (omitted) repealed in relation to Scotland by SSI 2007/80, regs 27, 28 and in relation to England and Wales by SI 2007/1843, reg 7(1), (7)(g).

 Date in force (in relation to Scotland): 15 February 2007: see SSI 2007/80, reg 2.

 Date in force (in relation to England and Wales): 21 August 2007: see SI 2007/1843, reg 2(1).

Second entry "Dolphins" inserted by SI 2007/1843, reg 7(1), (7)(h).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Dormouse" inserted by SI 1988/288, art 2.

Entry "Dormouse" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

 Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Dormouse" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Frog, Pool" inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (2), Sch 1.

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Goby, Couch's" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Goby, Giant" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Hatchet Shell, Northern" inserted by SI 1992/2350, art 2.

Entry "Hydroid, Marine" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Lagoon Snail" inserted by SI 1992/2350, art 2.

Entry "Lagoon Snail" repealed, in relation to England and Wales, by SI 2011/2015, art 2(1), (3), Sch 2.

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Lagoon Snail, De Folin's" inserted by SI 1992/2350, art 2.

Entry "Lagoon Worm, Tentacled" inserted by SI 1992/2350, art 2.

In entry "Lagoon Worm, Tentacled" words "(in respect of section 9(4)(a) only)" in square brackets inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (4).

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Leech, Medicinal" inserted by SI 1988/288, art 2.

Entry "Lizard, Sand" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

 Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Lizard, Sand" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Marten, Pine" inserted by SI 1988/288, art 2.

Entry "Mat, Trembling Sea" inserted by SI 1988/288, art 2.

Entry "Moth, Essex Emerald" repealed, in relation to England and Wales, by SI 2011/2015, art 2(1), (3), Sch 2.

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Moth, Fiery Clearwing" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Moth, Fisher's Estuarine" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

In entry "Moth, Fisher's Estuarine" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted, in relation to England and Wales, by SI 2008/2172, reg 4.

 Date in force: 1 October 2008: see SI 2008/2172, reg 1(1).

Entry "Moth, Slender Scotch Burnet" inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (2), Sch 1.

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Moth, Sussex Emerald" inserted by SI 1992/2350, art 2.

Entry "Moth, Talisker Burnet" inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (2), Sch 1.

 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Moth, Viper's Bugloss" inserted by SI 1988/288, art 2.

Entry "Moth, Vipers Bugloss" omitted repealed by SI 1998/878, art 2(3).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Mussel, Fan" inserted by SI 1998/878, art 2(1).

 Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Mussel, Freshwater Pearl" inserted by SI 1991/367, art 2.

Entry "Mussel, Freshwater Pearl" substituted by SI 1998/878, art 2(2).

 Date in force: 27 March 1998: see SI 1998/878, art 1(2).

Entry "Newt, Great Crested" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

 Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Newt, Great Crested" words "Newt, Great Crested or Warty (in respect of section 9(4)(b) and (c) and (5) only)" in square brackets substituted by SI 2007/1843, reg 7(1), (7)(d).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Otter, Common" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

 Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Otter, Common" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

First entry "Porpoises" (omitted) inserted by SI 1988/288, art 2.

First entry "Porpoises" (omitted) repealed in relation to Scotland by SSI 2007/80, regs 27, 28 and in relation to England and Wales by SI 2007/1843, reg 7(1), (7)(g).

 Date in force (in relation to Scotland): 15 February 2007: see SSI 2007/80, reg 2.

 Date in force (in relation to England and Wales): 21 August 2007: see SI 2007/1843, reg 2(1).

Second entry "Porpoises" inserted by SI 2007/1843, reg 7(1), (7)(h).

 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Sandworm, Lagoon" inserted by SI 1988/288, art 2.

Entry "Sea Fan, Pink" inserted by SI 1992/2350, art 2.

Entry "Seahorse, Short Snouted" inserted, in relation to England and Wales, by SI 2008/431, art 2(a), Schedule.

 Date in force: 6 April 2008: see SI 2008/431, art 1(2).

In entry "Seahorse, Short Snouted" words "and Wales" in square brackets inserted by SI 2008/1927, art 2(a).

 Date in force: 12 August 2008: see SI 2008/1927, art 1(2).

Entry "Seahorse, Spiny" inserted, in relation to England and Wales, by SI 2008/431, art 2(a), Schedule.

 Date in force: 6 April 2008: see SI 2008/431, art 1(2).

In entry "Seahorse, Spiny" words "and Wales" in square brackets inserted by SI 2008/1927, art 2(b).

Date in force: 12 August 2008: see SI 2008/1927, art 1(2).

Entry "Shad, Twaite" inserted by SI 1998/878, art 2(1).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

In entry "Shad, Twaite" words "section 9(4)(a)" in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2011/2015, art 2(1), (5).

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Shark, Angel" inserted, in relation to England and Wales, by SI 2008/431, art 2(a), Schedule.

Date in force: 6 April 2008: see SI 2008/431, art 1(2).

In entry "Shark, Angel" words "and Wales" in square brackets inserted by SI 2008/1927, art 2(c).

Date in force: 12 August 2008: see SI 2008/1927, art 1(2).

In entry "Shark, Angel" words from "(in respect of" to "excluded waters, only)" in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2011/2015, art 2(1), (6).

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Shark, Basking" inserted by SI 1998/878, art 2(1).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Shrimp, Fairy" inserted by SI 1988/288, art 2.

Entry "Shrimp, Lagoon Sand" inserted by SI 1988/288, art 2.

In entry "Shrimp, Lagoon Sand" words "(in respect of section 9(4)(a) only)" in square brackets inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (7).

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Skate, White" inserted, in relation to England and Wales, by SI 2011/2015, art 2(1), (2), Sch 1.

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Snail, Carthusian" omitted repealed by SI 1988/288, art 2.

Entry "Snail, Roman" inserted, in relation to England and Wales, by SI 2008/431, art 2(a), Schedule.

Date in force: 6 April 2008: see SI 2008/431, art 1(2).

In entry "Snail, Roman" words "and Wales" in square brackets inserted by SI 2008/1927, art 2(d).

Date in force: 12 August 2008: see SI 2008/1927, art 1(2).

Entry "Snake, Smooth" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Snake, Smooth" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Sturgeon" inserted by SI 1992/2350, art 2.

Entry "Sturgeon" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Sturgeon" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Toad, Natterjack" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Toad, Natterjack" words "(in respect of section 9(4)(b) and (c) and (5) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(a).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entries "Turtle, Flatback", "Turtle, Green Sea", "Turtle, Hawksbil", "Turtle, Kemp's Ridley Sea", "Turtle, Leatherback Sea", and "Turtle, Loggerhead Sea" inserted by SI 2007/1843, reg 7(1), (7)(h).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Turtles, Marine" (omitted) inserted by SI 1988/288, art 2.

Entry "Turtles, Marine" (omitted) repealed in relation to Scotland by SSI 2007/80, regs 27, 28 and in relation to England and Wales by SI 2007/1843, reg 7(1), (7)(e).

Date in force (in relation to Scotland): 15 February 2007: see SSI 2007/80, reg 2.

Date in force (in relation to England and Wales): 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Turtle, Olive Ridley" inserted by SI 2007/1843, reg 7(1), (7)(h).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Vendace" inserted by SI 1988/288, art 2.

Entry "Vole, Water" inserted by SI 1998/878, art 2(1).

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

In entry "Vole, Water" words omitted repealed by SI 2008/1927, art 2(e).

Date in force: 12 August 2008: see SI 2008/1927, art 1(2).

Entry "Walrus" inserted by SI 1988/288, art 2.

Entry "Whale" inserted by SI 1988/288, art 2.

Entry "Whale" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 28.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Whale" words "but in respect of section 9(4A) and (5) only" in square brackets inserted by SI 2007/1843, reg 7(1), (7)(f).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Whitefish" inserted by SI 1988/288, art 2.

Note 2: inserted, in relation to England and Wales, by SI 2008/431, art 2(c).

Date in force: 6 April 2008: see SI 2008/431, art 1(2).

Note 2: repealed by SI 2011/2015, art 2(1), (8).

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

[SCHEDULE 5A ANIMALS WHICH ARE PROTECTED UNDER SECTION 10A IN THEIR CLOSE SEASON]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (5).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(d).

[(introduced by sections 10A and 22)]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (5).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(d).

[Common name

Scientific name

Hare, mountain

Lepus timidus

Hare, brown

Lepus europaeus]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 6(1), (5).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(d).

SCHEDULE 6 ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY CERTAIN METHODS

Sections 11, 22

[FTB

Common name	Scientific name
Badger	<i>Meles meles</i>
<i>Bats, Horseshoe (all species)</i>	<i>Rhinolophidae</i>
<i>Bats, Typical (all species)</i>	<i>Vespertilionidae</i>
<i>Cat, Wild</i>	<i>Felis silvestris</i>
<i>Dolphin, Bottle-nosed</i>	<i>Tursiops truncatus (otherwise known as Tursiops tursio)</i>
<i>Dolphin, Common</i>	<i>Delphinus delphis</i>
<i>Dormice (all species)</i>	<i>Gliridae</i>
Hedgehog	<i>Erinaceus europaeus</i>
<i>Marten, Pine</i>	<i>Martes martes</i>
<i>Otter, Common</i>	<i>Lutra lutra</i>
<i>Polecat</i>	<i>Mustela putorius</i>
<i>Porpoise, Harbour (otherwise known as Common porpoise)</i>	<i>Phocaena phocaena</i>
Shrews (all species)	<i>Soricidae</i>
Squirrel, Red [FTE]	<i>Sciurus vulgaris</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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry relating to “Bats, Horseshoe (all species)” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Bats, Typical (all species)” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Cat, Wild” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Dolphin, Bottle-nosed” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Dolphin, Common” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Dormice (all species)” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Marten, Pine” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Otter, Common” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Polecat” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

Entry relating to “Porpoise, Harbour (otherwise known as Common Porpoise)” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 19.

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(k).

[SCHEDULE 6A ANIMALS NOT TO BE POACHED]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (4).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

[(introduced by sections 11G and 22)]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (4).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

[Common name

Scientific name

Hare, mountain

Lepus timidus

Hare, brown

Lepus europaeus

Rabbit

Oryctolagus cuniculus]

NOTES

Amendment

Inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 7(1), (4).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(e).

SCHEDULE 7 PROTECTION OF CERTAIN MAMMALS [AMENDMENT OF ACTS IN RELATION TO NIGHT SHOOTING OF HARES AND RABBITS]

NOTES

Amendment

Schedule heading: substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 11(1), (4)(a).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

Section 12 [12YA]

NOTES

Amendment

Reference to “12” in italics repealed and subsequent reference in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 11(1), (4)(b).

Date in force: 1 January 2012: see SSI 2011/433, art 2(1)(b).

The Ground Game Act 1880

1

(1) Notwithstanding the provisions of section 6 of the Ground 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.

The Agriculture (Scotland) Act 1948

2

(1) Notwithstanding the provisions of section 50(1)(a) of the 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 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.

3–12

...

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 16 February 1982: see SI 1982/44, art 2.

Amendment

Paras 3, 7: amend the Dogs (Protection of Livestock) Act 1953 and the Conservation of Seals Act 1970.

Paras 4-6: repealed by the Deer Act 1991, s 17, Sch 4.

Paras 8-12: repealed by the Protection of Badgers Act 1992, s 15(2), Schedule.

SCHEDULE 8
PLANTS WHICH ARE PROTECTED

Sections 13, 22, 24

[FTB

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>
[ADDER'S-TONGUE, LEAST	OPHIOGLOSSUM LUSITANICUM]
ALISON, SMALL	ALYSSUM ALYSSOIDES
[ANOMODON, LONG-LEAVED	ANOMODON LONGIFOLIUS]
[BEECH-LICHEN, NEW FOREST	ENTEROGRAPHIA ELABORATA]
[BLACKWORT	SOUTHBIA NIGRELLA]
[BLUEBELL (IN RESPECT OF SECTION 13(2) ONLY)	HYACINTHOIDES NON-SCRIPTA]
[BOLETE, ROYAL	BOLETUS REGIUS]
BROOMRAPE, BEDSTRAW	OROBANCHE CARYOPHYLLACEA
BROOMRAPE, OXTONGUE	OROBANCHE LORICATA
BROOMRAPE, THISTLE	OROBANCHE RETICULATA
[CABBAGE, LUNDY	RHYNCHOSINAPIS WRIGHTII]
CALAMINT, WOOD	CALAMINTHA SYLVATICA
[CALOPLACA, SNOW	CALOPLACA NIVALIS]
[CATAPYRENIUM, TREE	CATAPYRENIUM PSOROMOIDES]
CATCHFLY, ALPINE	LYCHNIS ALPINA
[CATILLARIA, LAURER'S	CATELLARIA LAURERI]
[CENTAURY, SLENDER	CENTAURIUM TENUIFLORUM]
CINQUEFOIL, ROCK	POTENTILLA RUPESTRIS

[CLADONIA, CONVOLUTED	CLADONIA CONVOLUTA]
[CLADONIA, UPRIGHT MOUNTAIN	CLADONIA STRICTA]
[CLARY, MEADOW	SALVIA PRATENSIS]
CLUB-RUSH, TRIANGULAR	SCIRPUS TRIQUETRUS
[COLT'S-FOOT, PURPLE	HOMOGYNE ALPINA]
COTONEASTER, WILD	COTONEASTER INTEGERRIMUS
[COTTONGRASS, SLENDER	ERIOPHORUM GRACILE]
COW-WHEAT, FIELD	MELAMPYRUM ARVENSE
[CROCUS, SAND	ROMULEA COLUMNAE]
[CRYSTALWORT, LIZARD	RICCIA BIFURCA]
[CUDWEED, BROAD-LEAVED	FILAGO PYRAMIDATA]
CUDWEED, JERSEY	GNAPHALIUM LUTEOALBUM
[CUDWEED, RED-TIPPED	FIAGO LUTESOENS]
[CUT-GRASS	LEERSIA ORYZOIDES]
[DEPTFORD PINK (IN RESPECT OF ENGLAND AND WALES ONLY)	DIANTHUS ARMERIA]
DIAPENSIA	DIAPENSIA LAPPONICA
[DOCK, SHORE [(IN RESPECT OF SECTION 13(2) ONLY)]	RUMEX RUPESTRIS]
[EARWORT, MARSH	JAMESONIELLA UNDULIFOLIA]
ERYNGO, FIELD	ERYNGIUM CAMPESTRE
[FEATHER-MOSS, POLAR	HYGROHYPNUM POLARE]
FERN, DICKIE'S BLADDER	CYSTOPTERIS DICKIEANA
FERN, KILLARNEY [(IN RESPECT OF SECTION 13(2) ONLY)]	TRICHOMANES SPECIOSUM
[FLAPWORT, NORFOLK	LEIOCOLEA RUTHEANA]
[FLEABANE, ALPINE	ERIGERON BOREALIS]
[FLEABANE, SMALL	PULICARIA VULGARIS]

[FROSTWORT, POINTED	GYMNOMITRION APICULATUM]
[FUNGUS, HEDGEHOG	HERICIUM ERINACEUM]
GALINGALE, BROWN	CYPERUS FUSCUS
GENTIAN, ALPINE	GENTIANA NIVALIS
[GENTIAN, DUNE	GENTIANELLA ULIGINOSA]
[<i>GENTIAN, EARLY [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>GENTIANELLA ANGLICA]</i>
[GENTIAN, FRINGED	GENTIANELLA CILIATA]
GENTIAN, SPRING	GENTIANA VERNA
[GERMANDER, CUT-LEAVED	TEVARIVM BOTRYS]
GERMANDER, WATER	TEUCRIUM SCORDIUM
GLADIOLUS, WILD	GLADIOLUS ILLYRICUS
[GOBLIN LIGHTS	CATOLECHIA WAHLENBERGII]
[GOOSEFOOT, STINKING	CHENOPODIUM VULVARIA]
[GRASS-POLY	LYTHRUM HYSSOPIFOLIA]
[GRIMMIA, BLUNT-LEAVED	GRIMMIA UNICOLOR
[GYALECTA, ELM	GYALECTA ULMI]
HARE'S-EAR, SICKLE-LEAVED	BUPLEURUM FALCATUM
HARE'S-EAR, SMALL	BUPLEURUM BALDENSE
[HAWK'S-BEAD, STINKING	CREPIS FOETIDA]
[HAWKWEED, NORTHROE	HIERACIUM NORTHROENSE]
[HAWKWEED, SHETLAND	HIERACIUM ZETLANDICUM]
HAWKWEED, WEAK-LEAVED	HIERACIUM ATTENUATIFOLIUM]
HEATH, BLUE	PHYLLODOCE CAERULEA
HELLEBORINE, RED	CEPHALANTHERA RUBRA
[<i>HELLEBORINE, YOUNG'S</i>	<i>EPIPACTIS YOUNGIANA]</i>
[HORSETAIL, BRANCHED	EQUISETUM RAMOSISSIMUM]

[HOUND'S-TONGUE, GREEN	CYNOGLOSSUM GERMANICUM]
KNAWEL, PERENNIAL	SCLERANTHUS PERENNIS
KNOTGRASS, SEA	POLYGONUM MARITIMUM
<i>LADY'S-SLIPPER [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>CYPRIPEDIUM CALCEOLUS</i>
...	...
[<i>LECANACTIS, CHURCHYARD</i>	<i>LECANACTIS HEMISPHAERICA</i>]
[LECANORA, TARN	LECANORA ARCHARIANA]
[LECIDEA, COPPER	LECIDEA INOPS]
LEEK, ROUND-HEADED	ALLIUM SPHAEROCEPHALON
LETTUCE, LEAST	LACTUCA SALIGNA
[LICHEN, ARCTIC KIDNEY	NEPHROMA ARCTICUM]
[LICHEN, CILIATE STRAP	HETERODERMIA LEUCOMELOS]
[LICHEN, CORALLOID ROSETTE	HETERODERMIA PROPAGULIFERA]
[LICHEN, EAR-LOBED DOG	PELTIGERA LEPIDOPHORA]
[LICHEN, FORKED HAIR	BRYORIA FURCELLATA]
[LICHEN, GOLDEN HAIR	TELOSCHISTES FLAVICANS]
[LICHEN, ORANGE FRUITED ELM	CALOPLACA LUTEOALBA]
[LICHEN, RIVER JELLY	COLLEMA DICHOTOMUM]
[LICHEN, SCALY BRECK	SQUAMARINA LENTIGERA]
[LICHEN, STARY BRECK	BUELLIA ASTERELLA]
LILY, SNOWDON	LLOYDIA SEROTINA
[LIVERWORT	PETALLOPHYLLUM RALFSI]
[LIVERWORT, LINDENBERG'S LEAFY	ADELANTHUS LINDENBERGIANUS]
MARSH-MALLOW, ROUGH	ALTHAEA HIRSUTA
<i>[MARSHWORT, CREEPING [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>APIUM REPENS]</i>

[MILK-PARSLEY, CAMBRIDGE	SELINUM CARVIFOLIA]
[MOSS	DREPANOCLADIUS VERNICOSUS]
[MOSS, ALPINE COPPER	MIELICHOFERIA MIELICHOFERI]
[MOSS, BALTIC BOG	SPHAGNUM BALTICUM]
[MOSS, BLUE DEW	SAELANIA GLAUDESCENS]
[MOSS, BLUNT-LEAVED BRISTLE	ORTHOTRICHUM OBTUSIFOLIUM]
[MOSS, BRIGHT GREEN CAVE	CYCLODICTYON LAETEVIRENS]
[MOSS, CORDATE BEARD	BARBULA CORDATA]
[MOSS, CORNISH PATH	DITRICHUM CORNUBICUM]
[MOSS, DERBYSHIRE FEATHER	THAMNOBRYUM ANGUSTIFOLIUM]
[MOSS, <i>DUNE THREAD</i>	<i>BRYUM MAMILLATUM</i>]
[MOSS, FLAMINGO	DESMATODON CERNUUS]
[MOSS, GLAUCOUS BEARD	BARBULA GLAUCA]
[MOSS, GREEN SHIELD	BUXBAUMIA VIRIDIS]
[MOSS, HAIR SILK	PLAGIOTHECIUM PILIFERUM]
[MOSS, KNOTHOLE	ZYGODON FORSTERI]
[MOSS, LARGE YELLOW FEATHER	SCORPIDIUM TURGESSENS]
[MOSS, MILLIMETRE	MICROMITRIUM TENERUM]
[MOSS, MULTIFRUITED RIVER	CRYPHEA LAMYANA]
[MOSS, NOWELL'S LIMESTONE	ZYGODON GRACILIS]
[MOSS, RIGID APPLE	BARTRAMIA STRICTA]
[MOSS, ROUND-LEAVED FEATHER	RHYNOSTEGIUM ROTUNDIFOLIUM]
[MOSS, SCHLEICHER'S THREAD	BRYUM SCHLEICHERI]
[MOSS, TRIANGULAR PYGMY	ACAULON TRIQUETRUM]
[MOSS, VAUCHER'S FEATHER	HYPNUM VAUCHERI]
[MUDWORT, WELSH	LIMOSELLA AUSTRALIS]

[NAIAD, HOLLY-LEAVED	NAJAS MARINA]
[<i>NAIAD, SLENDER [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>NAJAS FLEXILIS]</i>
[ORACHE, STALKED	HALIMIONE PEDUNCULATA]
ORCHID, EARLY SPIDER	OPHRYS SPHEGODES
<i>ORCHID, FEN [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>LIPARIS LOESELII</i>
ORCHID, GHOST	EPIPOGIUM APHYLLUM
[ORCHID, LAPLAND MARSH	DACTYLORHIZA LAPPONICA]
ORCHID, LATE SPIDER	OPHRYS FUCIFLORA
ORCHID, LIZARD	HIMANTOGLOSSUM HIRCINUM
ORCHID, MILITARY	ORCHIS MILITARIS
ORCHID, MONKEY	ORCHIS SIMIA
[PANNARIA, CALEDONIA	PANNARIA IGNOBILIS]
[PARMELIA, NEW FOREST	PARMELIA MINARUM]
[PARMENTARIA, OIL STAIN	PARMENTARIA CHILENSIS]
PEAR, PLYMOUTH	PYRUS CORDATA
[PENNYROYAL	MENTHA PULEGIUM]
[PENNY-CRESS, PERFOLIATE	THLASPI PERFOLIATUM]
[PERTUSARIA, ALPINE MOSS	PERTUSARIA BRYONTHA]
[PHYSCIA, SOUTHERN GREY	PHYSCIA TRIBACIOIDES]
[PIGMYWEED	CRASSULA AQUATICA]
[PINE, GROUND	AJUGA CHAMAEPITYS]
PINK, CHEDDAR	DIANTHUS GRATIANOPOLITANUS
PINK, CHILDLING	PETRORAGHIA NANTEUILII
[<i>PLANTAIN, FLOATING WATER [(IN RESPECT OF SECTION 13(2) ONLY)]</i>	<i>LURONIUM NATANS]</i>
[POLYPORE, OAK	BUGLOSSOPORUS PULVINUS]

[PSEUDOCYPHELLARIA, RAGGED	PSEUDOCYPHELLARIA LACERATA]
[PSORA, RUSTY ALPINE	PSORA RUBIFORMIS]
[PUFFBALL, SANDY STILT	BATTARRAEA PHALLOIDES]
[RAGWORT, FEN	SENECIO PALUDOSUS]
[RAMPION, SPIKED	PHYTEUMA SPICATUM]
[RAMPING-FUMITORY, MARTIN'S	FUMARIA MARTINIL]
[RESTHARROW, SMALL	ONONIS RECLINATA]
[ROCK-CRESS, ALPINE	ARABIS ALPINA]
[ROCK-CRESS, BRISTOL	ARABIS STRICTA]
[ROCK NAIL	CALICIUM CORYNELLUM]
[RUSTWORTH, WESTERN	MARSUPELLA PROFUNDA]
SANDWORT, NORWEGIAN	ARENARIA NORVEGICA
SANDWORT, TEESDALE	MINUARTIA STRICTA
SAXIFRAGE, DROOPING	SAXIFRAGA CERNUA
[SAXIFRAGE, MARSH [(IN RESPECT OF SECTION 13(2) ONLY)]	SAXIFRAGE HIRULUS]
SAXIFRAGE, TUFTED	SAXIFRAGA CESPITOSA
[SOLENOPSORA, SERPENTINE	SOLENOPSORA LIPINARA]
SOLOMON'S-SEAL, WHORLED	POLYGONATUM VERTICILLATUM
SOW-THISTLE, ALPINE	CICERBITA ALPINA
SPEARWORT, ADDER'S-TONGUE	RANUNCULUS OPHIOGLOSSIFOLIUS
[SPEEDWELL, FINGERED	VERONICA, TRIPHYLLAS]
SPEEDWELL, SPIKED	VERONICA SPICATA
[SPIKE-RUSH, DWARF	ELEOCHARIS PARVULA]
...	...
[STACK FLEAWORT, SOUTH	TEPHROSERIS INTEGRIFOLIA (SSP MARITIMA)]

[STAR-OF-BETHLEHEM, EARLY	GAGEA BETREMICA]
STARFRUIT	DAMASONIUM ALISMA
[STONEWORT, BEARDED	CHARA CANESCENS]
[STONEWORT, FOXTAIL	LAMPROTHAMNIUM PAPULOSUM]
[STRAPWORT	CARRIGIOLA LITORALIS]
[SULPHUR-TRESSES, ALPINE	ALECTORIA OCHROLEUCA]
[<i>THREADMOSS, LONG-LEAVED</i>	<i>BRYUM NEODAMENSE</i>]
[TREE LUNGWORT (IN RESPECT OF SECTION 13(2) ONLY)	LOBARIA PULMONARIA]
[TURPSWORT	GEOCALYX GRAVEOLENS]
[VIPER'S-GRASS	SCORZONERA HUMILIS]
VIOLET, FEN	VIOLA PERSICIFOLIA
WATER-PLANTAIN, RIBBON LEAVED	ALISMA GRAMINEUM
WOOD-SEDGE, STARVED	CAREX DEPAUPERATA
WOODSIA, ALPINE	WOODSIA ALPINA
WOODSIA, OBLONG	WOODSIA ILVENSIS
WORMWOOD, FIELD	ARTEMISIA CAMPESTRIS
WOUNDWORT, DOWNY	STACHYS GERMANICA
WOUNDWORT, LIMESTONE	STACHYS ALPINA
YELLOW-RATTLE, GREATER	RHINANTHUS SEROTINUS

[FTE

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Entry "Adder's-tongue, Least" inserted by SI 1988/288, art 3.

Entry "Anomodon, Long-leaved" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Beech-lichen, New Forest" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Blackwort" inserted by SI 1992/2350, art 3.

Entry "Bluebell" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Bolete, Royal" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Cabbage, Lundy" inserted by SI 1988/288, art 3.

Entry "Caloplaca, Snow" inserted by SI 1992/2350, art 3.

Entry "Catapyrenium, Tree" inserted by SI 1992/2350, art 3.

Entry "Catillaria, Laurer's" inserted by SI 1992/2350, art 3.

Entry "Centaury, Slender" inserted by SI 1992/2350, art 3.

Entry "Cladonia, Convoluted" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Cladonia, Upright Mountain" inserted by SI 1992/2350, art 3.

Entry "Clary, Meadow" inserted by SI 1992/2350, art 3.

Entry "Colt's-foot, Purple" inserted by SI 1988/288, art 3.

Entry "Cottongrass, Slender" inserted by SI 1988/288, art 3.

Entry "Crocus, Sand" inserted by SI 1988/288, art 3.

Entry "Crystalwort, Lizard" inserted by SI 1992/2350, art 3.

Entry "Cudweed, Broad-leaved" inserted by SI 1992/2350, art 3.

Entry "Cudweed, Red-tipped" inserted by SI 1988/288, art 3.

Entry "Cut-grass" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Deptford Pink" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Dock, Shore" inserted by SI 1992/2350, art 3.

Entry "Dock, Shore" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Dock, Shore" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(a).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Earwort, Marsh" inserted by SI 1992/2350, art 3.

Entry "Feather-moss, Polar" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Fern, Killarney" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Fern, Killarney" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(b).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Flapwort, Norfolk" inserted by SI 1992/2350, art 3.

Entry "Fleabane, Alpine" inserted by SI 1988/288, art 3.

Entry "Fleabane, Small" inserted by SI 1988/288, art 3.

Entry "Frostwort, Pointed" inserted by SI 1992/2350, art 3.

Entry "Fungus, Hedgehog" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Gentian, Dune" inserted by SI 1992/2350, art 3.

Entry "Gentian, Early" inserted by SI 1992/2350, art 3.

Entry "Gentian, Early" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Gentian, Early" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(c).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Gentian, Fringed" inserted by SI 1988/288, art 3.

Entry "Germander, Cut-leaved" inserted by SI 1988/288, art 3.

Entry "Goblin Lights" inserted by SI 1998/878, art 3.

Date in force: 16 April 1998: see SI 1998/878, art 1(2).

Entry "Goosefoot, Stinking" inserted by SI 1988/288, art 3.

Entry "Grass-poly" inserted by SI 1988/288, art 3.

Entry "Grimmia, Blunt-leaved" inserted by SI 1992/2350, art 3.

Entry "Gyalecta, Elm" inserted by SI 1992/2350, art 3.

Entry "Hawk's-bead, Stinking" inserted by SI 1988/288, art 3.

Entry "Hawkweed, Northroe" inserted by SI 1992/2350, art 3.

Entry "Hawkweed, Shetland" inserted by SI 1992/2350, art 3.

Entry "Helleborine, Young's" inserted by SI 1988/288, art 3.

Entry "Helleborine, Young's" repealed, in relation to England and Wales, by SI 2011/2015, art 3(1), (3), Sch 4.

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Horsetail, Branched" inserted by SI 1988/288, art 3.

Entry "Hound's-tongue, Green" inserted by SI 1988/288, art 3.

Entry "Lady's-slipper" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Lady's-slipper" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(d).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Lavender, Sea" omitted repealed by SI 1992/2350, art 3.

Entry "Lecanactis, Churchyard" inserted by SI 1992/2350, art 3.

Entry "Lecanactis, Churchyard" repealed, in relation to England and Wales, by SI 2011/2015, art 3(1), (3), Sch 4.

Date in force: 1 October 2011: see SI 2011/2015, art 1(b).

Entry "Lecanora, Tarn" inserted by SI 1992/2350, art 3.

Entry "Lecidea, Copper" inserted by SI 1992/2350, art 3.

Entry "Lichen, Arctic Kidney" inserted by SI 1992/2350, art 3.

Entry "Lichen, Ciliate Strap" inserted by SI 1992/2350, art 3.

Entry "Lichen, Coralloid Rosette" inserted by SI 1992/2350, art 3.

Entry "Lichen, Ear-lobed Dog" inserted by SI 1992/2350, art 3.

Entry "Lichen, Forked Hair" inserted by SI 1992/2350, art 3.

Entry "Lichen, Golden Hair" inserted by SI 1992/2350, art 3.

Entry "Lichen, Orange Fruited Elm" inserted by SI 1992/2350, art 3.

Entry "Lichen, River Jelly" inserted by SI 1992/2350, art 3.

Entry "Lichen, Scaly Breck" inserted by SI 1992/2350, art 3.

Entry "Lichen, Stary Breck" inserted by SI 1992/2350, art 3.

Entry "Liverwort" inserted by SI 1992/2350, art 3.

Entry "Liverwort, Lindenberg's Leafy" inserted by SI 1992/2350, art 3.

Entry "Marshwort, Creeping" inserted by SI 1988/288, art 3.

Entry "Marshwort, Creeping" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.

Date in force: 15 February 2007: see SSI 2007/80, reg 2.

In entry "Marshwort, Creeping" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(e).

Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).

Entry "Milk-parsley, Cambridge" inserted by SI 1988/288, art 3.

Entry "Moss" inserted by SI 1992/2350, art 3.

Entry "Moss, Alpine Copper" inserted by SI 1992/2350, art 3.

Entry "Moss, Baltic Bog" inserted by SI 1992/2350, art 3.

Entry "Moss, Blue Dew" inserted by SI 1992/2350, art 3.

Entry "Moss, Blunt-leaved Bristle" inserted by SI 1992/2350, art 3.

Entry "Moss, Bright Green Cave" inserted by SI 1992/2350, art 3.
 Entry "Moss, Cordate Beard" inserted by SI 1992/2350, art 3.
 Entry "Moss, Cornish Path" inserted by SI 1992/2350, art 3.
 Entry "Moss, Derbyshire Feather" inserted by SI 1992/2350, art 3.
 Entry "Moss, Dune Thread" inserted by SI 1992/2350, art 3.
 Entry "Moss, Dune Thread" repealed, in relation to England and Wales, by SI 2011/2015, art 3(1), (3), Sch 4.
 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).
 Entry "Moss, Flamingo" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Moss, Glaucous Beard" inserted by SI 1992/2350, art 3.
 Entry "Moss, Green Shield" inserted by SI 1992/2350, art 3.
 Entry "Moss, Hair Silk" inserted by SI 1992/2350, art 3.
 Entry "Moss, Knothole" inserted by SI 1992/2350, art 3.
 Entry "Moss, Large Yellow Feather" inserted by SI 1992/2350, art 3.
 Entry "Moss, Millimetre" inserted by SI 1992/2350, art 3.
 Entry "Moss, Multifruited River" inserted by SI 1992/2350, art 3.
 Entry "Moss, Nowell's Limestone" inserted by SI 1992/2350, art 3.
 Entry "Moss, Rigid Apple" inserted by SI 1992/2350, art 3.
 Entry "Moss, Round-leaved Feather" inserted by SI 1992/2350, art 3.
 Entry "Moss, Schleicher's Thread" inserted by SI 1992/2350, art 3.
 Entry "Moss, Triangular Pygmy" inserted by SI 1992/2350, art 3.
 Entry "Moss, Vaucher's Feather" inserted by SI 1992/2350, art 3.
 Entry "Mudwort, Welsh" inserted by SI 1992/2350, art 3.
 Entry "Naiad, Holly-leaved" inserted by SI 1988/288, art 3.
 Entry "Naiad, Slender" inserted by SI 1992/2350, art 3.
 Entry "Naiad, Slender" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.
 Date in force: 15 February 2007: see SSI 2007/80, reg 2.
 In entry "Naiad, Slender" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(f).
 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).
 Entry "Orache, Stalked" inserted by SI 1992/2350, art 3.
 Entry "Orchid, Fen" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.
 Date in force: 15 February 2007: see SSI 2007/80, reg 2.
 In entry "Orchid, Fen" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(g).
 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).
 Entry "Orchid, Lapland Marsh" inserted by SI 1992/2350, art 3.
 Entry "Pannaria, Caledonia" inserted by SI 1992/2350, art 3.
 Entry "Parmelia, New Forest" inserted by SI 1992/2350, art 3.
 Entry "Parmentaria, Oil Stain" inserted by SI 1992/2350, art 3.
 Entry "Pennyroyal" inserted by SI 1988/288, art 3.
 Entry "Penny-cress, Perfoliate" inserted by SI 1992/2350, art 3.
 Entry "Pertusaria, Alpine Moss" inserted by SI 1992/2350, art 3.
 Entry "Physcia, Southern Grey" inserted by SI 1992/2350, art 3.
 Entry "Pigmyweed" inserted by SI 1988/288, art 3.
 Entry "Pine, Ground" inserted by SI 1992/2350, art 3.
 Entry "Plantain, Floating Water" inserted by SI 1992/2350, art 3.
 Entry "Plantain, Floating Water" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.
 Date in force: 15 February 2007: see SSI 2007/80, reg 2.
 In entry "Plantain, Floating Water" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(h).
 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).
 Entry "Polypore, Oak" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Pseudocyphellaria, Ragged" inserted by SI 1992/2350, art 3.

Entry "Psora, Rusty Alpine" inserted by SI 1992/2350, art 3.
 Entry "Puffball, Sandy Stilt" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Ragwort, Fen" inserted by SI 1988/288, art 3.
 Entry "Rampion, Spiked" inserted by SI 1992/2350, art 3.
 Entry "Ramping-fumitory, Martin's" inserted by SI 1988/288, art 3.
 Entry "Restharrow, Small" inserted by SI 1988/288, art 3.
 Entry "Rock-cress, Alpine" inserted by SI 1988/288, art 3.
 Entry "Rock-cress, Bristol" inserted by SI 1988/288, art 3.
 Entry "Rock Nail" inserted, in relation to England and Wales, by SI 2011/2015, art 3(1), (2), Sch 3.
 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).
 Entry "Rustworth, Western" inserted by SI 1992/2350, art 3.
 Entry "Saxifrage, Marsh" inserted by SI 1992/2350, art 3.
 Entry "Saxifrage, Marsh" repealed, in relation to Scotland, by SSI 2007/80, regs 27, 29.
 Date in force: 15 February 2007: see SSI 2007/80, reg 2.
 In entry "Saxifrage, Marsh" words "(in respect of section 13(2) only)" in square brackets inserted by SI 2007/1843, reg 7(1), (8)(i).
 Date in force: 21 August 2007: see SI 2007/1843, reg 2(1).
 Entry "Solenopsora, Serpentine" inserted by SI 1992/2350, art 3.
 Entry "Speedwell, Fingered" inserted by SI 1988/288, art 3.
 Entry "Spike-rush, Dwarf" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Spurge, Purple" omitted repealed by SI 1992/2350, art 3.
 Entry "Stack Fleawort, South" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Star-of-Bethlehem, Early" inserted by SI 1988/288, art 3.
 Entry "Stonewort, Bearded" inserted by SI 1992/2350, art 3.
 Entry "Stonewort, Foxtail" inserted by SI 1988/288, art 3.
 Entry "Strapwort" inserted by SI 1988/288, art 3.
 Entry "Sulphur-tresses, Alpine" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Threadmoss, Long-leaved" inserted by SI 1998/878, art 3.
 Date in force: 16 April 1998: see SI 1998/878, art 1(2).
 Entry "Threadmoss, Long-leaved" repealed, in relation to England and Wales, by SI 2011/2015, art 3(1), (3), Sch 4.
 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).
 Entry "Tree Lungwort" inserted, in relation to England and Wales, by SI 2011/2015, art 3(1), (2), Sch 3.
 Date in force: 1 October 2011: see SI 2011/2015, art 1(b).
 Entry "Turpswort" inserted by SI 1992/2350, art 3.
 Entry "Viper's-grass" inserted by SI 1988/288, art 3.

SCHEDULE 9

ANIMALS AND PLANTS TO WHICH, SECTION 14 APPLIES

NOTES

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).
 Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Sections 14, 22

NOTES

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Part I
[Non-Native] Animals which are established in the wild

NOTES

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Part heading: words “Non-Native” in square brackets inserted by the Infrastructure Act 2015, s 24(1), (2).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

[FTB

COMMON NAME	SCIENTIFIC NAME
BASS, LARGE-MOUTHED BLACK	MICROPTERUS SALMOIDES
BASS, ROCK	AMBLOPLITES RUPESTRIS
BITTERLING	RHODEUS SERICEUS
[BOAR, WILD	SUS SCROFA]
BUDGERIGAR	MELOPSITTACUS UNDULATUS
CAPERCAILLIE	TETRAO UROGALLUS
[CHOUGH	PYRRHOCORAX PYRRHOCORAX
CORNCRAKE	CREX CREX]
COYPU	MYOCASTOR COYPUS
[CRAB, CHINESE MITTEN	ERIOCHEIR SINENSIS
CRANE, COMMON	GRUS GRUS]
[CRAYFISH, NOBLE	ASTACUS ASTACUS
[CRAYFISH, RED SWAMP	PROCAMBARUS CLARKI]
CRAYFISH, SIGNAL	PACIFASTACUS LENIUSCULUS
[CRAYFISH, SPINY-CHEEK	ORCONECTES LIMOSUS]
CRAYFISH, TURKISH	ASTACUS LEPTODACTYLUS
[DEER, ANY HYBRID ONE OF WHOSE PARENTS OR OTHER LINEAL ANCESTOR WAS A SIKA DEER	ANY HYBRID OF CERVUS NIPPON

WITH RESPECT TO THE OUTER

**HEBRIDES AND THE ISLANDS OF
ARRAN, ISLAY, JURA AND RUM—**

(A) DEER, CERVUS (ALL SPECIES)	CERVUS
(B) DEER, ANY HYBRID ONE OF WHOSE PARENTS OR OTHER LINEAL ANCESTOR WAS A SPECIES OF CERVUS DEER	ANY HYBRID OF THE GENUS CERVUS]
[DEER, CHINESE WATER	HYDROPOTES INERMIS]
[DEER, MUNTJAC	MUNTIACUS REEVES]
DEER, SIKA	CERVUS NIPPON]
DORMOUSE, FAT	GLIS GLIS
DUCK, CAROLINA WOOD	AIX SPONSA
DUCK, MANDARIN	AIX GALERICULATA
DUCK, RUDDY	OXYURA JAMAICENSIS
EAGLE, WHITE-TAILED	HALIAETUS ALBICILLA
[FLATWORM	KONTIKIA ANDERSONI
FLATWORM	KONTIKIA VENTROLINEATA
FLATWORM, AUSTRALIAN	AUSTRALOPLANA SANGUINEA]
[FLATWORM, NEW ZEALAND	ARTIPOSTHIA TRIANGULATA]
FROG, EDIBLE	RANA ESCULENTA
FROG, EUROPEAN TREE (OTHERWISE KNOWN AS COMMON TREE FROG)	HYLA ARBOREA
FROG, MARSH	RANA RIDIBUNDA
GERBIL, MONGOLIAN	MERIONES UNGUICULATUS
[GOOSE, BAR-HEADED	ANSER INDICUS
GOOSE, BARNACLE	BRANTA LEUCOPSIS]
GOOSE, CANADA	BRANTA CANADENSIS
GOOSE, EGYPTIAN	ALOPOCHEN AEGYPTIACUS

[GOOSE, EMPEROR	<i>ANSER CANAGICUS</i>
GOOSE, SNOW	<i>ANSER CAERULESCENS</i>
GOSHAWK	<i>ACCIPITER GENTILIS]</i>
HERON, NIGHT	<i>NYCTICORAX NYCTICORAX</i>
[KITE, RED	<i>MILVUS MILVUS</i>
LIMPET, SLIPPER	<i>CREPIDULA FORNICATE]</i>
LIZARD, COMMON WALL	<i>PODARCIS MURALIS</i>
MARMOT, PRAIRIE (OTHERWISE KNOWN AS PRAIRIE DOG)	<i>CYNOMYS</i>
MINK, AMERICAN	<i>MUSTELA VISON</i>
NEWT, ALPINE	<i>TRITURUS ALPESTRIS</i>
[NEWT, ITALIAN CRESTED	<i>TRITURUS CARNIFEX]</i>
[OWL, BARN	<i>TYTO ALBA]</i>
[OWL, EAGLE	<i>BUBO BUBO</i>
OYSTER DRILL, AMERICAN	<i>UROSALPINX CINEREA</i>
PARAKEET, MONK	<i>MYIOPSITTA MONACHUS]</i>
PARAKEET, RING-NECKED	<i>PSITTACULA KRAMERI</i>
PARTRIDGE, CHUKAR	<i>ALEXTORIS CHUKAR</i>
PARTRIDGE, ROCK	<i>ALEXTORIS GRAECA</i>
PHEASANT, GOLDEN	<i>CHRYSOLOPHUS PICTUS</i>
PHEASANT, LADY AMHERST'S	<i>CHRYSOLOPHUS AMHERSTIAE</i>
PHEASANT, REEVES'	<i>SYRMATICUS REEVESII</i>
PHEASANT, SILVER	<i>LOPHURA NYCTHEMERA</i>
[POCHARD, RED-CRESTED	<i>NETTA RUFINA]</i>
PORCUPINE, CRESTED	<i>HYSTRIX CRISTATA</i>
PORCUPINE, HIMALAYAN	<i>HYSTRIX HODGSONII</i>
PUMPKINSEED (OTHERWISE KNOWN AS SUN-FISH OR	<i>LEPOMIS GIBBOSUS</i>

POND-PERCH)

QUAIL, BOBWHITE

COLINUS VIRGINIANUS

RAT, BLACK

RATTUS RATTUS

[SHELDUCK, RUDDY

TADORNA FERRUGINEA]

[SNAKE, AESCULAPIAN

ELAPHE LONGISSIMA]

SQUIRREL, GREY

SCIURUS CAROLINENSIS

[SWAN, BLACK

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

SILURUS GLANIS

EUROPEAN CATFISH)

ZANDER

STIZOSTEDION LUCIOPERCA

[FTE

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Entry “Boar, Wild” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Boar, Wild” repealed by the Infrastructure Act 2015, s 24(1), (3).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entry “Budgerigar” repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Capercaillie” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entries “Chough” and “Corncrake” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Chough” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entry “Corncrake” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entry “Coypu” repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries “Crab, Chinese Mitten” and “Crane, Common” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Crane, Common” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entry “Crayfish, Noble”, “Crayfish, Signal”, “Crayfish, Turkish” and “Deer, Sika” inserted by SI 1992/320, art 2.

Entry “Crayfish, Red Swamp” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Crayfish, Spiny-cheek” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries beginning “Deer, any hybrid” and “With respect to the Outer Hebrides” inserted by SI 1999/1002, art 2.
Date in force: 28 April 1999: see SI 1999/1002, art 1.

Words from “With respect to” to “the genus *Cervus*” in italics repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Deer, Chinese Water” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Deer, Muntjac” inserted by SI 1997/226, art 2.

Entry “Eagle, White-tailed” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entries “Flatworm (*Kontikia andersoni*)”, “Flatworm (*Kontikia ventrolineata*)” and “Flatworm, Australian” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Flatworm, New Zealand” inserted by SI 1992/320, art 2.

Entry “Gerbil, Mongolian” repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries “Goose, Bar-headed” and “Goose, Barnacle” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries “Goose, Emperor”, “Goose, Snow” and “Goshawk” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Goshawk” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entries “Kite, Red” and “Limpet, Slipper” inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry “Kite, Red” repealed by the Infrastructure Act 2015, s 24(1), (3).
Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

Entry “Newt, Italian Crested” inserted by SI 1992/320, art 2.

Entry "Owl, Barn" inserted by SI 1992/2674, art 2.
 Entry "Owl, Barn" repealed by the Infrastructure Act 2015, s 24(1), (3).
 Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).
 Entries "Owl, Eagle", "Oyster Drill, American" and "Parakeet, Monk" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entry "Pochard, Red-crested" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entry "Porcupine, Crested" repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entry "Porcupine, Himalayan" repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entry "Quail, Bobwhite" repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (3).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entry "Shelduck, Ruddy" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).
 Entries "Snake, Aesculapian" inserted by SI 1992/320, art 2.
 Entry "Swan, Black" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (2).
 Date in force: 6 April 2010: see SI 2010/609, art 1(b).

[Part IA Native Animals]

NOTES

Amendment

Inserted by the Infrastructure Act 2015, s 24(1), (4).
 Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

[Common name	Scientific name
--------------	-----------------

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.

Capercaillie	Tetrao urogallus
Chough	Pyrrhocorax pyrrhocorax
Corncrake	Crex crex
Crane, Common	Grus grus
Eagle, White-tailed	Haliaeetus albicilla
Goshawk	Accipiter gentilis
Kite, Red	Milvus milvus
Owl, Barn	Tyto alba.]

NOTES

Amendment

Inserted by the Infrastructure Act 2015, s 24(1), (4).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

[Part IB
Animals No Longer Normally Present]

NOTES**Amendment**

Inserted by the Infrastructure Act 2015, s 24(1), (5).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

[Common name**Scientific name**

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.

Beaver, Eurasian (but not in relation to Wales) Castor fiber

Boar, Wild Sus Scrofa.]

NOTES**Amendment**

Inserted by the Infrastructure Act 2015, s 24(1), (5).

Date in force (in relation to England): 5 March 2015: see SI 2015/481, reg 2(b).

*Part II
Plants*

NOTES**Amendment**

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

[FTB***Common name******Scientific name***

[ALEXANDERS, PERFOLIATE

SMYRNIUM PERFOLIATUM

ALGAE, RED

GRATELOUPIA LUXURIANS

**ARCHANGEL, VARIEGATED
YELLOW**

**LAMIASTRUM GALEOBDOLON
SUBSP. ARGENTATUM**

AZALEA, YELLOW

RHODODENDRON LUTEUM

BALSAM, HIMALAYAN

IMPATIENS GLANDULIFERA

COTONEASTER

COTONEASTER HORIZONTALIS

COTONEASTER, ENTIRE-LEAVED

COTONEASTER INTEGRIFOLIUS

COTONEASTER, HIMALAYAN	COTONEASTER SIMONSII
COTONEASTER, HOLLYBERRY	COTONEASTER BULLATUS
COTONEASTER, SMALL-LEAVED	COTONEASTER MICROPHYLLUS
CREEPER, FALSE VIRGINIA	PARTHENOCISSUS INSERTA
CREEPER, VIRGINIA	PARTHENOCISSUS QUINQUEFOLIA
DEWPLANT, PURPLE	DISPHYMA CRASSIFOLIUM]
[Fanwort (otherwise known as Carolina Water-Shield)	Cabomba caroliniana]
[Fern, Water	Azolla filiculoides
Fig, Hottentot	Carpobrotus edulis]
[GARLIC, THREE-CORNERED	ALLIUM TRIQUETRUM]
Hogweed, Giant	Heracleum mantegazzianum
[Hyacinth, Water	Eichhornia crassipes]
Kelp, Giant	Macrocystis pyrifera
[Kelp, Giant	Macrocystis angustifolia
Kelp, Giant	Macrocystis integrifolia
Kelp, Giant	Macrocystis laevis
Kelp, Japanese	Laminaria japonica]
[KNOTWEED, GIANT	FALLOPIA SACHALINENSIS
KNOTWEED, HYBRID	FALLOPIA JAPONICA X FALLOPIA SACHALINENSIS]
Knotweed, Japanese	Polygonum cuspidatum
[Leek, Few-flowered	Allium paradoxum
Lettuce, Water	Pistia stratiotes
[MONTBRETIA	CROCOSMIA X CROCOSMIIFLORA]
Parrot's Feather	Myriophyllum aquaticum
Pennywort, Floating	Hydrocotyle ranunculoides
[POTATO, DUCK	SAGITTARIA LATIFOLIA

PRIMROSE, FLOATING WATER	LUDWIGIA PEPLOIDES
PRIMROSE, WATER	LUDWIGIA GRANDIFLORA
PRIMROSE, WATER	LUDWIGIA URUGUAYENSIS
RHODODENDRON	RHODODENDRON PONTICUM
RHODODENDRON	RHODODENDRON PONTICUM X RHODODENDRON MAXIMUM
RHUBARB, GIANT	GUNNERA TINCTORIA
ROSE, JAPANESE	ROSA RUGOSA]
Salvinia, Giant	Salvinia molesta]
[Seafingers, Green	Codium fragile]
[Seafingers, Green	Codium fragile tomentosoides
Seaweed, Californian Red	Pikea californica
Seaweed, Hooked Asparagus	Asparagopsis armata]
Seaweed, Japanese	Sargassum muticum
[Seaweeds, Laver (except native species)	Porphyra spp except— p. amethystea p. leucosticta p. linearis p.miniata p. purpurea p. umbilicalis]
[Stonecrop, Australian Swamp (otherwise known as New Zealand Pygmyweed)	Crassula helmsii]
[Wakame	Undaria pinnatifida]
[Waterweed, Curly	Lagarosiphon major]
[WATERWEEDS	ALL SPECIES OF THE GENUS ELODEA].

[FTE]

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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

Repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 17(1), (8).

Date in force: 2 July 2012: see SSI 2012/175, art 2(1)(c).

Entries relating to "Alexanders, Perfoliate", "Algae, Red", "Archangel, Variegated Yellow", "Azalea, Yellow", "Balsam, Himalayan", "Cotoneaster", "Cotoneaster, Entire-leaved", "Cotoneaster, Himalayan", "Cotoneaster, Hollyberry", "Cotoneaster, Small-leaved", "Creeper, False Virginia", "Creeper, Virginia", "Dewplant, Purple" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries relating to "Fanwort", "Fern, Water" and "Fig, Hottentot" inserted in relation to England and Wales by SI 2010/609, art 2(1), (4); a corresponding amendment has been made in relation to Scotland by SSI 2005/308, art 2.

Date in force (in relation to Scotland): 30 June 2005: see SSI 2005/308, art 1(1).

Date in force (in relation to England and Wales): 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Garlic, Three-cornered" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Hyacinth, Water" inserted in relation to England and Wales by SI 2010/609, art 2(1), (4) and in relation to Scotland by SSI 2005/308, art 2.

Date in force (in relation to Scotland): 30 June 2005: see SSI 2005/308, art 1(1).

Date in force (in relation to England and Wales): 6 April 2010: see SI 2010/609, art 1(b).

Entries relating to "Kelp, Giant" and "Kelp, Japanese" inserted by SI 1992/320, reg 3.

Entry relating to "Knotweed, Giant", "Knotweed, Hybrid", and "Knotweed, Japanese (*Fallopia japonica*)" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Knotweed, Japanese (*Polygonum cuspidatum*)" repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (5).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries relating to "Leek, Few-flowered", "Lettuce, water", "Parrot's-feather", "Pennywort, Floating" and "Salvinia, Giant" inserted in relation to England and Wales by SI 2010/609, art 2(1), (4) and in relation to Scotland by SSI 2005/308, art 2.

Date in force (in relation to Scotland): 30 June 2005: see SSI 2005/308, art 1(1).

Date in force (in relation to England and Wales): 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Montbretia" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries relating to "Potato, Duck", "Primrose, Floating Water", "Primrose, Water (*Ludwigia grandiflora*)", "Primrose, Water (*Ludwigia uruguayensis*)", "Rhododendron (*Rhododendron*

ponticum)", "Rhododendron (Rhododendron ponticum x Rhododendron maximum)", "Rhubarb, Giant", "Rose, Japanese" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Seafingers, Green (Codium fragile)" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entries relating to "Seafingers, Green (Codium fragile tomentosoides)", "Seaweed, Californian Red" and "Seaweed, Hooked Asparagus" inserted by SI 1992/320, reg 3.

Entry relating to "Seafingers, Green (Codium fragile tomentosoides)" repealed, in relation to England and Wales, by SI 2010/609, art 2(1), (5).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Seaweeds, Laver (except native species)" inserted by SI 1992/320, reg 3.

Entry relating to "Stonecrop, Australian swamp" inserted in relation to England and Wales by SI 2010/609, art 2(1), (4); a corresponding amendment has been made in relation to Scotland by SSI 2005/308, art 2.

Date in force (in relation to Scotland): 30 June 2005: see SSI 2005/308, art 1(1).

Date in force (in relation to England and Wales): 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Wakame" inserted by SI 1992/320, reg 3.

Entry relating to "Waterweed, Curly" inserted in relation to England and Wales by SI 2010/609, art 2(1), (4); a corresponding amendment has been made in relation to Scotland, by SSI 2005/308, art 2.

Date in force (in relation to Scotland): 30 June 2005: see SSI 2005/308, art 1(1).

Date in force (in relation to England and Wales): 6 April 2010: see SI 2010/609, art 1(b).

Entry relating to "Waterweeds" inserted, in relation to England and Wales, by SI 2010/609, art 2(1), (4).

Date in force: 6 April 2010: see SI 2010/609, art 1(b).

[A]

SCHEDULE 10

AMENDMENTS OF THE ENDANGERED SPECIES (IMPORT AND EXPORT) ACT 1976

Section 15

...

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 September 1982: see SI 1982/1217, art 2(a).

Amendment

This Schedule contains amendments to the Endangered Species (Import and Export) Act 1976.

[SCHEDULE 10A

DELEGATION OF APPELLATE FUNCTIONS]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), s 75(1), Sch 9, para 7.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

[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

3

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.]

NOTES

Amendment

Inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 75(1), s 75(1), Sch 9, para 7.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

SCHEDULE 11

PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART II

NOTES

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4; for transitional provisions and savings see s 49(1), Sch 5, paras 1, 11 thereto.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sections 29, 34

NOTES

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4; for transitional provisions and savings see s 49(1), Sch 5, paras 1, 11 thereto.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Coming into operation

1

- (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 sub-paragraph, stand revoked if the Secretary of State gives notice under paragraph 6 that the order is not to be confirmed.*

Publicity for orders

2

- (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.*

Unopposed orders

3

(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 modification).*

Opposed orders

4

(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 Local Government Act 1972 or subsections (4) to (8) of section 210 of the 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.*

Restriction on power to amend orders or confirm them with modifications

5

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.

Notice of final decision on orders

6

(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).*

Proceedings for questioning validity of orders

7

(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 29 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.*

Interpretation

8

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 29 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.

NOTES

Initial Commencement

Specified date

Specified date (with effect in relation to orders under s 34 hereof): 30 November 1981: see s 74(2).

To be appointed

To be appointed (for remaining purposes): see s 74(3).

Appointment

Appointment: 6 September 1982: see SI 1982/1136, art 2.

Amendment

Repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 4; for transitional provisions and savings see s 49(1), Sch 5, paras 1, 11 thereto.

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Para 7: in sub-para (2) words “29 or” repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt III.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Para 8: in definition “order” words “29 or” repealed, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 102, Sch 16, Pt III.

Date in force: 30 January 2001: see the Countryside and Rights of Way Act 2000, s 103(2).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

SCHEDULE 12

...

NOTES

Amendment

Repealed, in relation to England and Wales, by the Marine and Coastal Access Act 2009, ss 146(1), 321, Sch 11, para 2(1), (2)(b), Sch 22, Pt 3 and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(b).

Date in force (in relation to England and Wales except in respect of marine conservation zones in Wales): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

...

NOTES

Amendment

Repealed, in relation to England and Wales, by the Marine and Coastal Access Act 2009, ss 146(1), 321, Sch 11, para 2(1), (2)(b), Sch 22, Pt 3 and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(b).

Date in force (in relation to England and Wales except in respect of marine conservation zones in Wales): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).

Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).

Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

...

NOTES

Amendment

Repealed in relation to England and Wales by the Marine and Coastal Access Act 2009, ss 146(1), 321, Sch 11, para 2(1), (2)(a), Sch 22, Pt 3 and in relation to Scotland by the Marine (Scotland) Act 2010, s 167, Sch 4, Pt 2, para 5(d).

Date in force (in relation to England): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i); for transitional provisions see Sch 12 thereto.

Date in force (in relation to Wales except in respect of marine conservation zones): 12 January 2010: see the Marine and Coastal Access Act 2009, s 324(2)(b)(i).
Date in force (in relation to Scotland): 1 July 2010: see SSI 2010/230, art 2(h).
Date in force (in relation to Wales in respect of marine conservation zones): 12 December 2014: see SI 2014/3088, art 2(b).

SCHEDULE 13

...

NOTES

Amendment

Repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 98, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

...

NOTES

Amendment

Repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 98, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

...

NOTES

Amendment

Repealed by the Natural Environment and Rural Communities Act 2006, s 105, Sch 11, Pt 1, para 98, Sch 12.

Date in force: 1 October 2006: see SI 2006/2541, art 2; for transitional provisions see art 3, Schedule, para 1 thereto.

SCHEDULE 14

APPLICATIONS FOR CERTAIN ORDERS UNDER PART III

Section 53

Form of applications

1

An application shall be made in the prescribed form and shall be accompanied by—

- (a) a map drawn to the prescribe 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 satisfied 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 [(which may include a direction as to the time within which an order is to be made)].

Interpretation

5

- (1) In this Schedule—

"application" means an application under section 53(5);

“local authority” means [a non-metropolitan district council], a parish . . . council or the parish meeting of a parish not having a separate parish council [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1984: see SI 1983/20, arts 3(a), 4.

Amendment

Para 4: in sub-para (2) words “(which may include a direction as to the time within which an order is to be made)” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 10.

Date in force (in relation to England): 13 February 2004: see SI 2004/292, art 2(d)(ii).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(ii).

Para 5: in sub-para (1) in definition “local authority” words “a non-metropolitan district council” in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Para 5: in sub-para (1) in definition “local authority” words omitted repealed by the Local Government (Wales) Act 1994, s 66(6), (8), Sch 16, para 65(11), Sch 18.

Para 5: in sub-para (1) in definition “local authority” words “but, in relation to Wales, means a community council” in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(11).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993, SI 1993/12 (made under paras 1, 2, 5).

SCHEDULE 15

PROCEDURE IN CONNECTION WITH CERTAIN ORDERS UNDER PART III

Sections 53, 54

Consultation

1

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

2

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.

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[, 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 [(1)(c) or] (8) shall be construed as limiting [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.

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 modification 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 so 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[, 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.

[(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 [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 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[, which must include particulars of the grounds relied on,] may be made;
 - [(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.]

...

9

...

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.

[Hearings and local inquiries]

10A

(1) Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the Local 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 Town 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.]

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 and 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 [a non-metropolitan district council], a parish . . . council or the parish meeting of a parish not having a separate parish council [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.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1984: see SI 1983/20, arts 3(a), 4.

Amendment

Para 3: in sub-para (1)(c) words “, which must include particulars of the grounds relied on,” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (2).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 3: in sub-para (9) words “(1)(c) or” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (3)(a).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 3: in sub-para (9) words “the grounds which may be relied on or” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (3)(b).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 7: in sub-para (2) words “, subject to sub-paragraph (2A),” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (4).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 7: sub-para (2A) inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (5).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 7: in sub-para (3) words “any person appointed to hold an inquiry” in square brackets substituted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (6).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 8: in sub-para (2)(a) words “, which must include particulars of the grounds relied on,” in square brackets inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (7)(a).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 8: sub-paras (2)(b), (c), (3), (4) substituted, for sub-para (2)(b), (c) as originally enacted, by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (7)(b).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(1)(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 9: repealed by the Countryside and Rights of Way Act 2000, ss 51, 102, Sch 5, Pt I, paras 11(1), (8), Sch 16, Pt II.

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Date in force (in relation to Wales): 6 December 2006: see SI 2006/3257, art 2(c)(ii).
Para 10A: inserted by the Countryside and Rights of Way Act 2000, s 51, Sch 5, Pt I, para 11(1), (8).

Date in force (in relation to England for certain purposes): 13 February 2004: see SI 2004/292, arts 2(d)(iii), 3(1).

Date in force (in relation to Wales): 31 May 2005: see SI 2005/1314, art 2(a)(iii).

Date in force (in relation to England for remaining purposes): 27 September 2005: see SI 2005/2459, art 2(2)(a), (b)(iii).

Para 13: in sub-para (2) in definition “local authority” words “a non-metropolitan district council” in square brackets substituted by the Local Government Act 1985, s 7, Sch 3, para 7.

Para 13: in sub-para (2) in definition “local authority” words omitted repealed by the Local Government (Wales) Act 1994, s 66(6), (8), Sch 16, para 65(12), Sch 18.

Para 13: in sub-para (2), in definition “local authority” words “but, in relation to Wales, means a community council” in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 65(12).

Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993, SI 1993/12 (made under paras 3, 11, 13).

Rail Crossing Extinguishment and Diversion Orders, the Public Path Orders and the Definitive Maps and Statements (Amendment) Regulations 1995, SI 1995/451 (made under para 3(2)(b)(iv)).

SCHEDULE 16

ORDERS CREATING, EXTINGUISHING OR DIVERTING FOOTPATHS OR BRIDLEWAYS

Section 63

1–9

...

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 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 Acquisition of Land (Authorisation Procedure) Act 1946.

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment: 28 February 1984: see SI 1983/20, arts 3(a), 4.

Amendment

Paras 1-4: repealed by the Planning (Consequential Provisions) Act 1990, s 3, Sch 1, Part I.

Paras 5-9: amend the Highways Act 1980, s 119, Sch 6.

SCHEDULE 17

ENACTMENTS REPEALED

Section 73

Part I

Enactments Repealed One Month After the Passing of This Act

...

NOTES

Initial Commencement

Specified date

Specified date: 30 November 1981: see s 74(2).

Amendment

This Schedule contains repeals and revocations only.

Part II

Enactments Repealed on a Day to be Appointed

<...>

NOTES

Initial Commencement

To be appointed

To be appointed: see s 74(3).

Appointment

Appointment (in part): 1 April 1982: see SI 1982/327, art 2.

Appointment (in part): 16 February 1982: see SI 1982/44, art 2.

Appointment (in part): 28 September 1982: see SI 1982/1217, art 2(d).

Appointment (remainder): 28 February 1983: see SI 1983/20, art 3(c).

Amendment

This Schedule contains repeals and revocations only.