



Protection of Badgers Act 1992

1992 CHAPTER 51

Offences

1 Taking, injuring or killing badgers.

- (1) A person is guilty of an offence if, except as permitted by or under this Act, he wilfully kills, injures or takes [^{F1}, or attempts to kill, injure or take,] a badger.
- (2) [^{F2}If, in any proceedings for an offence under subsection (1) above consisting of attempting to kill, injure or take a badger, there is evidence from which it could reasonably be concluded that at the material time the accused was attempting to kill, injure or take a badger, he shall be presumed to have been attempting to kill, injure or take a badger unless the contrary is shown.]
- (3) A person is guilty of an offence if, except as permitted by or under this Act, he has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger.
- (4) A person is not guilty of an offence under subsection (3) above if he shows that—
 - (a) the badger had not been killed, or had been killed otherwise than in contravention of the provisions of this Act or of the ^{M1}Badgers Act 1973; or
 - (b) the badger or other thing in his possession or control had been sold (whether to him or any other person) and, at the time of the purchase, the purchaser had had no reason to believe that the badger had been killed in contravention of any of those provisions.
- (5) If a person is found committing an offence under this section on any land it shall be lawful for the owner or occupier of the land, or any servant of the owner or occupier, or any constable, to require that person forthwith to quit the land and also to give his name and address; and if that person on being so required wilfully remains on the land or refuses to give his full name or address he is guilty of an offence.
- [^{F3}(6) A person is guilty of an offence if, except as permitted by or under this Act, he knowingly causes or permits to be done an act which is made unlawful by subsection (1) or (3) above.]

Changes to legislation: There are currently no known outstanding effects for the Protection of Badgers Act 1992, Cross Heading: Offences. (See end of Document for details)

Textual Amendments

- F1** Words in s. 1(1) repealed (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), [Sch. 6 para. 26\(2\)\(a\)](#); S.S.I. 2004/407, art. 2(b)
- F2** S. 1(2) repealed (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), [Sch. 6 para. 26\(2\)\(b\)](#); S.S.I. 2004/407, art. 2(b)
- F3** S. 1(6) added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

Marginal Citations

- M1** 1973 c. 57.

2 Cruelty.

- (1) A person is guilty of an offence if—
- he cruelly ill-treats a badger;
 - he uses any badger tongs in the course of killing or taking, or attempting to kill or take, a badger;
 - except as permitted by or under this Act, he digs for a badger; or
 - he uses for the purpose of killing or taking a badger any firearm other than a smooth bore weapon of not less than 20 bore or a rifle using ammunition having a muzzle energy not less than 160 footpounds and a bullet weighing not less than 38 grains.
- (2) If in any proceedings for an offence under subsection (1)(c) above there is evidence from which it could reasonably be concluded that at the material time the accused was digging for a badger he shall be presumed to have been digging for a badger unless the contrary is shown.
- [^{F4}(3) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.]

Textual Amendments

- F4** S. 2(3) added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

3 Interfering with badger setts.

- [^{F5}(1)] A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—
- damaging a badger sett or any part of it;
 - destroying a badger sett;
 - obstructing access to, or any entrance of, a badger sett;
 - causing a dog to enter a badger sett; or
 - disturbing a badger when it is occupying a badger sett,
- intending to do any of those things or being reckless as to whether his actions would have any of those consequences.

Changes to legislation: There are currently no known outstanding effects for the Protection of Badgers Act 1992, Cross Heading: Offences. (See end of Document for details)

[^{F6}(2) A person is guilty of an offence if, except as permitted by or under this Act, he knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.]

Textual Amendments

- F5** S. 3 renumbered as s. 3(1) (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), [Sch. 6 para. 26\(3\)\(a\)](#); S.S.I. 2004/407, art. 2(b)
- F6** S. 3(2) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), s. 59(2), [Sch. 6 para. 26\(3\)\(b\)](#); S.S.I. 2004/407, art. 2(b)

4 Selling and possession of live badgers.

[^{F7}(1)] A person is guilty of an offence if, except as permitted by or under this Act, he sells a live badger or offers one for sale or has a live badger in his possession or under his control.

[^{F8}(2) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.]

Textual Amendments

- F7** S. 4 renumbered as s. 4(1) (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 33\(4\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F8** S. 4(2) added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 33\(4\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

5 Marking and ringing.

[^{F9}(1)] A person is guilty of an offence if, except as authorised by a licence under section 10 below, he marks, or attaches any ring, tag or other marking device to, a badger other than one which is lawfully in his possession by virtue of such a licence.

[^{F10}(2) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.]

Textual Amendments

- F9** S. 5 renumbered as s. 5(1) (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 33\(5\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F10** S. 5(2) added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 33\(5\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

Changes to legislation:

There are currently no known outstanding effects for the Protection of Badgers Act 1992, Cross
Heading: Offences.