



Agriculture (Scotland) Act 1948

1948 CHAPTER 45 11 and 12 Geo 6

PART III CONTROL OF INJURIOUS ANIMALS, BIRDS AND WEEDS

Amendments of Law relating to Killing of Hares and Rabbits

48 Amendment of 43 & 44 Vict. c. 47, s. 1.

- (1) Paragraph (3) of the proviso to section one of the Ground Game Act, 1880 (which paragraph restricts the exercise of the rights conferred by the section on the occupiers of certain lands to kill and take ground game otherwise than by the use of firearms to the period from the first day of September to the thirty-first day of March, and as regards killing and taking with firearms to the period from the eleventh day of December to the thirty-first day of March), shall cease to apply as regards killing and taking otherwise than by the use of firearms, and shall, as regards killing and taking with firearms, have effect as if for the words “eleventh day of December” the words “first day of July” were substituted.
- (2) The Secretary of State may, on the application of an occupier of land, and after affording to the landlord thereof an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, sanction the authorisation by such occupier of such number of persons to kill and take ground game on the land in addition to any person so authorised in pursuance of section one of the Ground Game Act, 1880, as the Secretary of State may, having regard to the extent of the land, think reasonable; and the provisions of the said section one with regard to the production by persons authorised by the occupier of the documents by which they are so authorised shall apply to any person authorised in pursuance of any such sanction as aforesaid in like manner as those provisions apply to persons authorised in pursuance of that section. The occupier shall, on authorising any person in pursuance of this subsection, forthwith give notice in writing to the landlord of the name of that person:

Provided that the number of persons who may be authorised as aforesaid shall not be increased without an opportunity being given to the landlord of making representations

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to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State.

- (3) The Secretary of State may at any time—
- (a) require an occupier to withdraw any authorisation, or
 - (b) recall or vary any sanction,
- granted under the last foregoing subsection.
- (4) Section three of the ^{M1}Ground Game Act, 1880, shall not apply to prevent the occupier of land and the owner of such land or any other person having a right to kill and take game thereon from making and enforcing agreements for the joint exercise, or the exercise for their joint benefit, of the right to kill and take ground game otherwise than by the use of firearms:

Provided that this subsection shall not apply in relation to any such agreement as aforesaid which was made after the commencement of this section and to which the tenant of a holding within the meaning of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, is a party, unless the agreement was made after the lease under which the tenant holds the land was entered into.

- (5) ^{F1}

Textual Amendments

F1 S. 48(5) repealed by [Agriculture Act 1958 \(c. 71\)](#), [Sch. 3](#)

Marginal Citations

M1 1880 c. 47.

49 Provision as to use of poisonous substances.

A person shall not be guilty of an offence under section seven of the ^{M2}Protection of Animals (Scotland) Act, 1912, by reason only that he uses poisonous gas, or places a substance which, by evaporation or in contact with moisture, generates poisonous gas, in any hole, burrow or earth for the purpose of killing animals to which section thirty-nine of this Act applies.

Marginal Citations

M2 1912 c. 14.

[^{F2}50 Prohibition of night shooting, and use of spring traps.

- (1) Subject to the provisions of this section, a person shall be guilty of an offence under this subsection if—
- (a) between the expiration of the first hour after sunset and the commencement of the last hour before sunrise, he uses a firearm for the purpose of killing hares or rabbits; or
 - (b) for the purpose of killing or taking animals, he uses, or knowingly permits the use of, any spring trap other than an approved trap, or uses, or knowingly

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- permits the use of, an approved trap for animals or in circumstances for which it is not approved; or
- (c) he sells, or exposes or offers for sale, any spring trap other than an approved trap with a view to its being used for a purpose which is unlawful under the last foregoing paragraph; or
 - (d) he has any spring trap in his possession for a purpose which is unlawful under this subsection.
- (2) A person guilty of an offence under the foregoing subsection shall be liable on summary conviction to a fine not exceeding twenty pounds or, if he has been previously convicted of such an offence, a fine not exceeding fifty pounds.
- (3) In this section any reference to an approved trap refers to a trap of a type and make for the time being specified by order of the Secretary of State as approved by him either generally or subject to conditions as to the animals for which or the circumstances in which it may be used, and any reference to the animals or circumstances for which a trap is approved shall be construed accordingly.
- (4) Subject to the provisions of [^{F3}subsections (4A) and (5)], the Secretary of State may from time to time by order authorise the use, for the purpose of killing or taking animals, of spring traps other than approved traps, and such authority may be granted—
- (a) either generally or subject to such conditions as to the animals for which or the circumstances in which such traps may be used as may be specified in the order;
 - (b) either as respects all land in Scotland, or as respects the land in any county or any part of a county, or as respects any particular land or class of land, as may be so specified;
- and paragraph (b) of subsection (1) of this section shall not render unlawful the use of a spring trap under such an authority.
- [An order made under subsection (3) may not specify any type or make of trap as ^{F4}(4A) approved, and an order made under subsection (4) may not authorise the use of any trap, where the trap is a leghold trap.]
- (5) The Secretary of State may—
- (a) if he is satisfied, having regard to the quantities of approved traps available at reasonable prices and to such other considerations as seem to him relevant, that it is expedient to do so, by order withdraw any authority granted under [^{F5}subsection (4)];
 - (b) when he is satisfied that the power to grant authorities under the said subsection is no longer necessary, by regulation withdraw all subsisting authorities granted under that subsection;
- and after such regulation has been made it shall not be lawful for the Secretary of State, unless the regulation is revoked under subsection (1) of section five of the ^{M3}Statutory Instruments Act, 1946, to grant an authority under [^{F5}subsection (4)].
- (6) Paragraph (b) of subsection (1) of this section shall not render unlawful the experimental use of a spring trap under and in accordance with a licence given by the Secretary of State to enable a trap to be developed or tested with a view to its being approved under subsection (3) of this section.

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- (7) Subsection (1) of this section shall not apply to spring traps of any description specified by order of the Secretary of State as being adapted solely for the destruction of rats, mice or other small ground vermin.
- (8) The power of the Secretary of State to make orders under this section shall be exercisable by statutory instrument which, in the case of an order made under the last foregoing subsection, shall be subject to annulment by resolution of either House of Parliament.

[In subsection (4A), “leghold trap” means a device designed to restrain or capture an ^{F6}(9) animal by means of jaws which close tightly upon one or more of the animal’s limbs, thereby preventing withdrawal of the limb or limbs from the trap.]]

Textual Amendments

- F2** Ss. 50, 50A substituted for s. 50 by [Pests Act 1954 \(c. 68\), s. 10](#)
- F3** Words in s. 50(4) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\), regs. 1\(1\), 8\(a\)](#)
- F4** S. 50(4A) inserted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\), regs. 1\(1\), 8\(b\)](#)
- F5** Words in s. 50(5) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\), regs. 1\(1\), 8\(c\)](#)
- F6** S. 50(9) inserted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\), regs. 1\(1\), 8\(d\)](#)

Modifications etc. (not altering text)

- C1** S. 50(1) excluded by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\), s. 12, Sch. 7 para. 2\(1\)](#)
- C2** S. 50(2) has effect as if the maximum fines there mentioned were fines not exceeding level 3 on the standard scale by virtue of [1975 c. 21, ss. 289C, 289G, Sch. 7C](#) (as inserted by [1977 c. 45, Sch. 11 paras. 5, 13](#) and by [1982 c. 48, s. 54](#)) (which 1975 Act was repealed (1.4.1996) by [1996 c. 40, ss. 6, 7\(2\), Sch. 5](#)) and (1.4.1996) by virtue of [1996 c. 40, ss. 3, 7\(2\), Sch. 1 para. 3\(1\), Sch. 2 Pt. II](#).
- C3** S. 50(4) amended by [Agriculture \(Spring Traps\) \(Scotland\) Act 1969 \(c. 26\), s. 2, s. 50\(4\)\(5\)](#) repealed as from 1st April 1973 by [Agriculture \(Spring Traps\) \(Scotland\) Act 1969 \(c. 26\), ss. 1, 3](#)

Marginal Citations

- M3** [1946 c. 36.](#)

[^{F7}50A Open trapping of hares and rabbits.

- (1) Subject to the provisions of this section, a person shall be guilty of an offence under this subsection if, for the purpose of killing or taking hares or rabbits, he uses, or knowingly permits the use of, a spring trap elsewhere than in a rabbit hole.
- (2) A person guilty of an offence under the foregoing subsection shall be liable on summary conviction to a fine not exceeding twenty pounds or, if he has been previously convicted of such an offence, a fine not exceeding fifty pounds.
- (3) Subsection (1) of this section shall not render unlawful the use of spring traps under and in accordance with a licence given by the Secretary of State.
- (4) A licence under this section—
- (a) may be embodied in a rabbit clearance order under the ^{M4}Pests Act, 1954, or in a notice given under subsection (1) of section thirty-nine of this Act; and

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- (b) whether so embodied or not, may be revoked by the Secretary of State (in whole or in part) by giving notice of the revocation in such manner as he thinks sufficient to inform the persons concerned.]

Textual Amendments

F7 Ss. 50, 50A substituted for s. 50 by Pests Act 1954 (c. 68), s. 10

Modifications etc. (not altering text)

C4 S. 50A(2) has effect as if the maximum fines there mentioned were fines not exceeding level 3 on the standard scale by virtue of 1975 c. 21, ss. 289C, 289G, Sch. 7C (as inserted by 1977 C. 45, Sch. 11 paras. 5, 13 and by 1982 c. 48, s. 54) (which 1975 Act was repealed (1.4.1996) by 1996 c. 40, ss. 6, 7(2), Sch. 5) and (1.4.1996) by virtue of 1996 c. 40, ss. 3, 7(2), Sch. 1 para. 3(1), Sch. 2 Pt. II.

Marginal Citations

M4 1954 c. 68.

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