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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1733 (W.176)**

**WILDLIFE, WALES**

**The Wildlife and Countryside Act 1981  
(Amendment) (Wales) Regulations 2004**

*Made* - - - - 6 July 2004  
*Coming into force* - - 2 August 2004

The National Assembly for Wales, being designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the conservation of natural habitats and of wild fauna and flora, in exercise of the powers conferred upon it by the said section 2(2), hereby makes the following Regulations:

**Citation, commencement, extent and application**

- 1.—(1) These Regulations may be cited as the Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 and come into force on 2 August 2004.  
(2) These Regulations extend to England and Wales and apply in relation to Wales.

**Interpretation**

2. In these Regulations —  
“the Act” (“*y Ddeddf*”) means the Wildlife and Countryside Act 1981<sup>(3)</sup>;  
“the 2004 Regulations” (“*Rheoliadau 2004*”) means the Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004<sup>(4)</sup>.

**Application of the Wildlife and Countryside Act 1981: Wales**

- 3.—(1) Section 27ZA of the Act (inserted by the 2004 Regulations) ceases to have effect, so that the amendments to Part 1 of the Act which were made by regulations 3 and 4 of the 2004 Regulations and which are contained in the Schedule to these Regulations apply also in relation to Wales.

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(1) S.I.2002/248, article 3 and Schedule 2.  
(2) 1972 c. 68.  
(3) 1981 c. 69.  
(4) S.I. 2004/1487.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(2) The reference in Schedule 1 to the National Assembly (Transfer of Functions) Order 1999<sup>(5)</sup> to the Act is to be treated as referring to the Act as amended by the 2004 Regulations and these Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(6)</sup>

6 July 2004

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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<sup>(5)</sup> S.I. 1999/672.  
<sup>(6)</sup> 1998 c. 38.

## SCHEDULE

Regulation 3(1)

### AMENDMENTS TO THE WILDLIFE AND COUNTRYSIDE ACT 1981

1. In section 1 (protection of wild birds, their nests and eggs)—
  - (a) in subsection (3)(a)—
    - (i) before “killed”, the second time it occurs, insert “lawfully”, and
    - (ii) omit “otherwise than in contravention of the relevant provisions”;
  - (b) in subsection (3)(b)—
    - (i) before “sold” insert “lawfully”, and
    - (ii) omit “otherwise than in contravention of the relevant provisions”;
  - (c) in subsection (3) omit the words from “and”, where first occurring, to the end of the subsection; and
  - (d) after subsection (3) insert the following subsection—

“(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 Council Directive [79/409/EEC](#) on the conservation of wild birds 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 Council Directive referred to in paragraph (c).”.
2. In the definition of “wild bird” in subsection (1) of section 27 (interpretation of Part 1)—
  - (a) for “kind” substitute “species”, and
  - (b) for “Great Britain” substitute “the European territory of any member State”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply to Wales, amend Part 1 of the Wildlife and Countryside Act 1981 (“the Act”), which transposes in part Council Directive [79/409/EEC](#) on the conservation of wild birds (O.J. No. L103, 25.04.1979, p.1).

The Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004 (“the 2004 Regulations”) inserted a new section 27ZA in the Act with the effect that the other amendments made by those Regulations applied in relation to England only. By virtue of these Regulations, section 27ZA of the Act ceases to have effect, thereby applying in relation to Wales the amendments made by the 2004 Regulations.

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Those amendments, which are set out in the Schedule to these Regulations, include a restriction on the scope of the defences under section 1(3) of the Act, and an extension to the definition of “wild bird” in section 27 of the Act.