

EXECUTIVE NOTE

THE WILDLIFE AND COUNTRYSIDE ACT 1981 (VARIATION OF SCHEDULE 4) (SCOTLAND) ORDER 2009

SSI/2009/418

THE WILDLIFE AND COUNTRYSIDE (REGISTRATION AND RINGING OF CERTAIN CAPTIVE BIRDS) (SCOTLAND) REGULATIONS 2009

SSI 2009/419

The Wildlife and Countryside Act 1981 (Variation of Schedule 4) (Scotland) Order 2009 (the “Variation Order”) was made in exercise of the powers conferred by section 22 of the Wildlife and Countryside Act 1981 (the “1981 Act”).

The Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Scotland) Regulations 2009 (the “Ringing Regulations”) were made in exercise of the powers conferred by section 7 of the 1981 Act.

The instruments are each subject to negative resolution procedure.

Introduction

Part I of the 1981 Act implements Directive 79/409/EEC on the conservation of wild birds (the “Birds Directive”).

Section 7 of the 1981 Act provides for the registration of certain birds kept in captivity as a mechanism to help deter illegal take from the wild of birds whose populations are threatened. Schedule 4 to the 1981 Act lists the birds must be ringed and registered in accordance with that section. It is an offence to fail to register or ring/mark a bird if required to do so.

Section 7 and Schedule 4 are commonly known as the “bird registration scheme”.

In 2006 the Joint Nature Conservation Committee undertook a review of the bird registration scheme. As part of that review the JNCC carried out an assessment of the populations of the birds in the wild, and noted an improvement in the size of the wild populations of many of the species included in the scheme.

The JNCC also noted that some birds registered under the bird registration scheme listed are also registered for the purposes of the Convention on the Control in Trade of Endangered Species (CITES). This has created an unnecessary double registration requirement in respect of those birds.

The operation of the bird registration scheme in or as regards Scotland is the responsibility of the Scottish Ministers, but the scheme is administered on a GB basis by the Department for the Environment, Food and Rural Affairs. Implementation of CITES is reserved to UK

Government.

DEFRA therefore agreed to consult on behalf of all the GB administrations on proposed changes to the bird registration scheme, intended to reduce the regulatory burden on bird keepers, without compromising the conservation status of wild bird populations.

That consultation took place in November 2006, and the consultation responses supported the proposed changes. The recommended changes were therefore implemented for England and Wales on October 2008 and April 2009 respectively. The Variation Order and Ringing Regulations are the instruments that will implement the recommended changes for Scotland.

The Variation Order

The Variation Order will remove 50 species from the Schedule, and will also remove the requirement for hybrids of all species listed in Schedule 4 to be registered.

The 9 species that will remain on Schedule 4 are the honey buzzard, golden eagle, white tailed eagle, goshawk, marsh harrier, merlin, Montagu's harrier, peregrine falcon and osprey. No new species are added to the Schedule.

The Ringing Regulations

The Ringing Regulations improve the bird registration scheme by

- removing the requirement for birds subject to the scheme to be re-registered every 3 years;
- providing that any merlin or peregrine falcon with a certificate issued by, and listed on a register maintained by, the UK CITES Management Authority (DEFRA), does not need to be registered under the scheme;
- providing that every bird marked under the CITES scheme need not also be ringed under the scheme.

The Ringing Regulations will also revoke the following instruments:-

- (a) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982;
- (b) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1991; and
- (c) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1994.

Implementation

The two instruments will come into force on 21 December 2009.

Consultation

Details of the consultation undertaken are included in the Regulatory Impact Assessment prepared for the two instruments.

Regulatory Impact Assessment

a) Options (for achieving the policy objective)

As detailed in the Executive Note, currently keepers of birds in Scotland have to register certain species through both the Wildlife and Countryside Act and CITES, this causes duplication of paperwork and is a legislative requirement that cannot be resolved through any non-legislative procedures.

JNCC have assessed the list of birds included on Schedule 4 and the final list proposed includes all those birds that if taken from the wild would have an impact on their conservation status, hereby requiring them to remain on Schedule 4 of the Act.

b) Benefits

The legislation provides for a consistent approach across the UK that will ensure that keepers of birds in the UK are aware of the requirements regarding registration. It will reduce the amount of paperwork required to be submitted.

The reduced list of bird species will be monitored and a compliance and enforcement strategy is being developed by Animal Health Agency to ensure that the conservation status of the birds that remain on Schedule 4 is not compromised.

c) Costs

Currently keepers of birds in Scotland have to pay registration costs under the bird registration scheme of the Wildlife and Countryside Act and certification under CITES. The revisions to Schedule 4 will mean that fewer birds will require registration and therefore will result in a reduction in costs to the keepers.

The Animal Health Agency carries out the registration of birds on behalf of Scotland through a Service Level Agreement and at no cost to the Scottish Government. The revisions to Schedule 4 will have no cost implications to the Scottish Government but will reduce the administrative burden and costs carried by the Animal Health Agency on behalf of Scotland.

d) Consultation

In November 2006 Defra carried out a consultation on behalf of Scotland (England and Wales) on a review to consider the regulatory burden placed on keepers of captive birds and to determine the most appropriate bird species to be included in Schedule 4 of the Act. The consultation attracted 131 responses, 9 of which were from Scotland. The consultation outlined five proposals for changes to the scheme ranging from outright abolition of the scheme to revisions to the list based on advice from JNCC.

Since the consultation on bird registration closed, the international situation for the commercial trade of birds changed due to avian influenza i.e. the prohibition on importation of wild birds into the European Union. Defra questioned the need to retain or add non-native species to a Schedule when no new specimens are allowed to be imported into the EU. JNCC were asked to reconsider the list in light of this prohibition and apply the strict criterion: the wild population is so small that even the taking of a very few individuals would have a detrimental impact on the conservation of the wild population.

JNCC subsequently recommended 16 species for retention: wryneck, red-backed shrike, serin, black redstart, Scottish crossbill, chough, snow bunting, fieldfare, redwing, white-tailed eagle, Montagu's harrier, honey buzzard, osprey, marsh harrier, goshawk, and golden eagle.

The final list of birds to be retained on Schedule 4 are the 9 birds of prey identified in the JNCC list as it is felt that these are most at risk of illegal take from the wild and that taking of these birds would affect that conservation status. Namely: white-tailed eagle, Montagu's harrier, honey buzzard, osprey, marsh harrier, goshawk, golden eagle. In addition peregrine falcon and merlin are also to be retained if they are not already registered through CITES. Whilst not identified in the revised JNCC list, the species are felt to still be at risk of illegal take and are retained on the list.

The remaining birds from the list were not included in the revisions as the number of birds held in captivity is relatively low and evidence of illegal take is negligible.

Summary

The Orders are being put forward to address the requirements detailed above. The benefits will provide a consistent bird registration scheme across the UK and will reduce the costs for the keepers of the birds and the Animal Health Agency as administrators of the scheme. The revised list includes those species that require continued protection from illegal take from the wild.