



# Badgers Act 1973

## 1973 CHAPTER 57

An Act to prohibit, save as permitted under this Act, the taking, injuring or killing of badgers. [25th July 1973]

### Modifications etc. (not altering text)

- C1** Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)
- C2** Certain functions of Minister of Agriculture, Fisheries and Food transferred by [S.I. 1978/272, art. 2](#)
- C3** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(1), [Sch. 12 para.23](#); [S.I. 1991/2208, art. 2\(1\)](#), [Sch. 1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s.70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

### Commencement Information

- I1** Act wholly in force at 25.1.1974 see [s. 12\(3\)](#)

## 1 Taking, injuring or killing of badgers.

[<sup>F1</sup>(1)] If, save as permitted by or under this Act, any person wilfully kills, injures or takes, or attempts to kill, injure or take, any badger, he shall be guilty of an offence.

[<sup>F2</sup>(1A) 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.]

[<sup>F3</sup>(2) If, save as permitted by or under this Act, any person has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger, he shall be guilty of an offence.

- (3) A person shall not be guilty of an offence under subsection (2) above if he shows that—
- the badger had not been killed, or had been killed otherwise than in contravention of the provisions of this Act; or

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- (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 those provisions.]

#### Textual Amendments

- F1** Word inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), **s. 1(1)(a)**  
**F2** [S. 1\(A\)](#) inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), **s. 1(1)(b)**  
**F3** [S. 1\(2\)\(3\)](#) substituted by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), **Sch. 7 para. 8**

## 2 Offences of cruelty.

[<sup>F4</sup>(1)] If any person shall—

- (a) cruelly ill-treat any badger,
- (b) use in the course of killing or taking, or attempting to kill or take any badger, any badger tongs,
- (c) [<sup>F5</sup>save as permitted by or under this Act], dig for any badger, or
- (d) use for the purpose of killing or taking any badger any firearm other than a smooth bore weapon of not less than 20 bore or a rifle using ammunition having a muzzle energy of not less than 160 footpounds and a bullet weighing not less than 38 grains,

he shall be guilty of an offence.

[<sup>F6</sup>(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.]

[<sup>F7</sup>(3)] If any person shall interfere with a badger sett by doing any of the following things, that is to say—

- (a) damaging a badger sett or any part thereof;
- (b) destroying a badger sett;
- (c) obstructing access to or any entrance of a badger sett;
- (d) causing a dog to enter a badger sett; or
- (e) 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 will have any of those consequences, he shall be guilty of an offence.]

#### Textual Amendments

- F4** Word inserted by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), **s. 1(2)(a)**  
**F5** Words substituted by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), **Sch. 7 para. 9(2)**  
**F6** [S. 2\(2\)](#) added by [Wildlife and Countryside \(Amendment\) Act 1985 \(c. 31, SIF 4:5\)](#), **s. 1(2)(b)**  
**F7** [S. 2\(3\)](#) added (25.10.1991) by [Badgers Act 1991 \(c. 36, SIF 4:5\)](#), **ss.1, 6(2)**.

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**3 Selling and possession of live badgers.**

If, save as permitted by or under this Act, any person sells, offers for sale or has in his possession or under his control any live badger he shall be guilty of an offence.

**4 Restriction of marking and ringing.**

If, save as may be authorised by licence granted under section 9 of this Act, any person marks, or attaches any ring, tag or other marking device to, any badger (other than one which is lawfully in his possession by virtue of section 8(2)(a) of this Act or of such a licence) he shall be guilty of an offence.

**5 Offender may be required to quit land.**

If any person shall be found committing an offence under section 1 of this Act 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 such land and also to give his name and address; and if that person on being so required wilfully remains upon the land or refuses to give his full name or address, he shall be guilty of an offence.

**6** <sup>F8</sup> .....

**Textual Amendments**

**F8** S. 6 repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), s. 73(4), Sch. 7 para. 9(3), [Sch. 17 Pt. II](#)

**7** <sup>F9</sup> .....

**Textual Amendments**

**F9** S. 7 repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), s. 73(4), Sch. 7 para. 9(1), [Sch. 17 Pt. II](#)

**8 General exceptions.**

- (1) A person shall not be guilty of an offence under this Act by reason only of—
- (a) the taking or attempted taking of any badger which had been disabled otherwise than by his act and was taken or to be taken solely for the purpose of tending it;
  - (b) the killing or attempted killing of any badger which appeared to be so seriously injured or in such a condition that to kill it would be an act of mercy;
  - (c) the unavoidable killing or injuring of any badger as an incidental result of a lawful action.

[<sup>F10</sup>(1A) A person shall not be guilty of an offence under section 1(1) [<sup>F11</sup>or 2(3)]of this Act by reason of—

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- (a) the killing or taking or the attempted killing or taking of any badger, or
- (b) the injuring of any badger in the course of taking it or attempting to kill or take it,

[<sup>F12</sup>or

- (c) the interfering with any badger sett,]

if he shows that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property.

(1B) The defence provided by subsection (1A) above shall not apply in relation to 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 9 of this Act 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.]

(2) It shall not be an offence under section 3 of this Act for any person to have a live badger in his possession or under his control if—

- (a) it has been kept in captivity by that person for a continuous period beginning before the passing of this Act,
- (b) it is in that person's possession or under his control, as the case may be, in the course of his business as a carrier,
- (c) ..... <sup>F13</sup>
- (d) it has been taken in circumstances in which, by virtue of subsection (1)(a), above, the taking of the badger did not constitute an offence under this Act and it is necessary for the purpose of tending it for it to remain in that person's possession, or under his control, as the case may be.

(3) A person shall not be guilty of an offence under this Act by reason only of something done in connection with an experiment on a living badger if what is done does not constitute a contravention of the <sup>M1</sup>Cruelty to Animals Act 1876.

[<sup>F14</sup>(4) A person shall not be guilty of an offence under section 2 (3) (a), (c) or (e) of this Act if he shows that his action was the incidental result of a lawful operation and could not reasonably have been avoided.]

[<sup>F15</sup>(5) A person shall not be guilty of an offence under section 2(3)(a), (c) or (e) of this Act by reason of obstructing any entrance of a badger sett for the purpose of hunting foxes with hounds provided that he takes no action other than obstructing such entrances, does not dig into the tops or sides of the entrances, that the materials so used are not packed hard into the entrances, that the materials so used are only—

- (a) untainted straw or hay, or leaf-litter, or bracken, or loose soil placed in the entrances on the day of the hunt, or after midday of the day preceding the day of the hunt, or
- (b) a bundle of sticks or faggots, or paper sacks either empty or filled with untainted straw, or hay, or leaf-litter, or bracken, or loose soil, placed in the entrances on the day of the hunt and removed the same day,

and that the person is so doing with the authority of the landowner or occupier and is authorised by a Hunt recognised by the Masters of Fox Hounds Association, the Association of Masters of Harriers and Beagles or the Central Committee of Fell Packs, which Hunt shall keep a register of all such persons.

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- (6) A person shall not be guilty of an offence under section 2(3)(a) or (c) or (e) of this Act by reason of his hounds marking at a badger sett, provided they are withdrawn as soon as reasonably practicable.]

#### Textual Amendments

- F10** S. 8(1A)(1B) inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **Sch. 7 para. 10(1)**
- F11** Words in s. 8(1A) inserted (25.10.1991) by Badgers Act 1991 (c. 36, SIF 4:5), **ss. 2(1)(a)**, 6(2).
- F12** Words in s. 8(1A) inserted (25.10.1991) by Badgers Act 1991 (c. 36, SIF 4:5), **ss. 2(1)(b)**, 6(2).
- F13** S. 8(2)(c) repealed by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73(4), **Sch. 7 para. 9(4), Sch. 17 Pt. II**
- F14** S. 8(4) added (25.10.1991) by Badgers Act 1991 (c. 36, SIF 4:5), **ss. 2(2)**, 6(2).
- F15** S. 8(5)(6) inserted (25.10.1991) by Badgers Act 1991 (c. 36, SIF 4:5), **ss. 3**, 6(2).

#### Marginal Citations

- M1** 1876 c. 77(4:5).

## 9 Licences.

- (1) A licence may be granted to any person by the appropriate authority specified in the next subsection authorising that person, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence,—
- (a) for scientific or educational purposes or for the conservation of badgers to kill or take within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified;
  - (b) for the purpose of any zoological gardens or collection specified in the licence to take within an area specified in the licence by any means so specified, or to sell, or to have in his possession any number of badgers so specified;
  - (c) for the purpose of ringing and marking to take badgers within an area specified in the licence, to mark such badgers or to attach to them any ring, tag or other marking device as specified in the licence;
  - (d) for the purpose of preventing the spread of disease to kill or take badgers within an area specified in the licence by any means so specified;
  - <sup>[F16]</sup>(e) for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers within an area specified in the licence by any means so specified.]
- (2) The appropriate authority for the grant of a licence under the foregoing subsection shall be—
- (a) in the case of a licence under paragraph (a), (b) or (c) of that subsection, the <sup>[F17]</sup>Nature Conservancy Council for England, <sup>[F18]</sup>Scottish Natural Heritage] or the Countryside Council for Wales (according as the area specified in the licence is in England, Scotland or Wales)];
  - (b) in the case of a licence under paragraph (d) <sup>[F19]</sup>or (e)] of that subsection, the Minister of Agriculture, Fisheries and Food or, in Scotland, the Secretary of State.
- (3) A licence granted under this section may be revoked at any time by the authority by whom it was granted, and without prejudice to any other liability to a penalty which he may have incurred under this or any other Act, any person who contravenes or fails to

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comply with any condition imposed on the grant of a licence under this section shall be guilty of an offence.

[<sup>F20</sup>(4) The Minister of Agriculture, Fisheries and Food and the Secretary of State shall from time to time consult with [<sup>F21</sup>each of the following bodies, namely, the Nature Conservancy Council for England, <sup>F22</sup>. . .and the Countryside Council for Wales as to the exercise in the respective areas of those Councils of the functions of those Ministers](under subsection (1)(e) above; and neither of them shall grant a licence of any description unless he has been advised by the Council [<sup>F23</sup>for the area specified in the licence] as to the circumstances in which, in the Council's opinion, licences of that description should be granted.]

[<sup>F24</sup>(4) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M2</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M3</sup>Protection of Animals (Scotland) Act 1912 (each of which restricts the placing on land of poison and poisonous substances) to show that—

- (a) the act alleged to constitute the offence was done under the authority of a licence granted under paragraph (a) of subsection (1) of this section; and
- (b) any conditions specified in the licence were complied with.]

<sup>F25</sup>(4A) The Secretary of State shall consult from time to time with Scottish Natural Heritage as to the exercise of his functions under subsection (1)(e) above; and he shall not grant a licence of any description unless he has been advised by Scottish Natural Heritage as to the circumstances in which, in its opinion, licences of that description should be granted.

#### Textual Amendments

- F16** S. 9(1)(e) inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **Sch. 7 para. 10(2)**
- F17** Words in s. 9(2)(a) substituted (1.4.1991) by virtue of Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 6(2)**; S.I. 1991/685, **art. 3**
- F18** Words in s. 9(2) substituted (1.4.1992) by Natural Heritage Act 1991 (c. 28, SIF 46:1), s. 4(6), **Sch. 2, para. 5(2)**; S.I. 1991/2633, **art.4**
- F19** Words inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **Sch. 7 para. 10(3)**
- F20** S. 9(4) inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **Sch. 7 para. 10(4)**
- F21** Words in s. 9(4) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 6(3)(b)**; S.I. 1991/685, **art. 3**
- F22** Words in s. 9(4) repealed (1.4.1992) by Natural Heritage Act 1991 (c. 28, SIF 46:1), ss. 27(2), **Sch.11**; S. I. 1991/2633, **art. 4**
- F23** Words in s. 9(4) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 6(3)(b)**; S.I. 1991/685, **art. 3**
- F24** S. 9(4) added by Conservation of Wild Creatures and Wild Plants Act 1975 (c. 48), **s. 16**, (the amendment of s. 9 by s. 16 of the Conservation of Wild Creatures and Wild Plants Act 1975 (c. 48) continues to have effect notwithstanding the repeal of the 1975 Act: Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73(4), **Sch. 17 Pt. II**)
- F25** S. 9(4A) inserted (1.4.1992) by Natural Heritage Act 1991 (c. 28, SIF 46:1), s. 4(6), **Sch. 2, para. 5(3)**; S.I. 1991/2633, **art. 4**

#### Marginal Citations

- M2** 1911 c. 27(4:5).
- M3** 1912 c. 14(4:5).

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## 10 Enforcement penalties, etc. **E+W**

(1) Where a constable has reasonable grounds for suspecting that any person is committing an offence under this Act, or has committed an offence under this Act and that evidence of the commission of the offence is to be found on that person or any vehicle or article he may have with him, the constable may—

(a) without warrant stop and search that person and search any vehicle or article he may have with him;

[<sup>F26</sup>(b) without warrant arrest that person if he fails to give his full name and address to the constable's satisfaction; and]

(c) seize and detain for the purposes of proceedings under this Act [<sup>F27</sup>anything which may be evidence of the commission of the offence or may be liable to be forfeited under subsection (3) below].

[<sup>F28</sup>(2) Any person guilty of an offence under this Act shall be liable on summary conviction—

(a) in the case of an offence under section 1 or 2, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both;

(b) in the case of an offence under section 3 or 4, to a fine not exceeding that level; and

(c) in the case of an offence under section 5, to a fine not exceeding level 3 on that scale;]

Provided that where the offence was committed in respect of more than one badger, the maximum fine which may be imposed under [<sup>F29</sup>paragraph (a) or (b)]of this subsection shall be determined as if the person convicted has been convicted of a separate offence in respect of each badger.

(3) The court before whom any person is convicted of an offence under this Act shall order the forfeiture of any badger or skin thereof in respect of which the offence was committed and may, if they think fit, order the forfeiture of any weapon or article in respect of or by means of which the offence was committed.

### Textual Amendments

**F26** S. 10(1)(b) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **Sch. 7 Pt. I**

**F27** Words substituted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **Sch. 7**, para. 11(1)

**F28** Words in s. 10(2) substituted (E.W.)(25.10.1991 and 1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. **26(3)**; S.I. 1991/2208, art. 2(2), **Sch. 2** and S.I. 1992/333, art. 2(2), **Sch.2**

**F29** Words in s. 10(2) substituted (E.W.)(25.10.1991 and 1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. **26(3)**; S.I. 1991/2208, art. 2(2), **Sch. 2** and S.I. 1992/333, art. 2(2), **Sch.2**.

## 10 Enforcement penalties, etc. **S**

(1) Where a constable has reasonable grounds for suspecting that any person is committing an offence under this Act, or has committed an offence under this Act and that evidence of the commission of the offence is to be found on that person or any vehicle or article he may have with him, the constable may—

(a) without warrant stop and search that person and search any vehicle or article he may have with him;



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- [<sup>F33</sup>(b) without warrant arrest that person if he fails to give his full name and address to the constable's satisfaction; and]
- (c) seize and detain for the purposes of proceedings under this Act [<sup>F34</sup>anything which may be evidence of the commission of the offence or may be liable to be forfeited under subsection (3) below].

[<sup>F35</sup>(2) Any person guilty of an offence under this Act shall be liable on summary conviction—

- (a) in the case of an offence under section 1 or 2, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both;
- (b) in the case of an offence under section 3 or 4, to a fine not exceeding that level; and
- (c) in the case of an offence under section 5, to a fine not exceeding level 3 on that scale;]

Provided that where the offence was committed in respect of more than one badger, the maximum fine which may be imposed under [<sup>F36</sup>paragraph (a) or (b)]of this subsection shall be determined as if the person convicted has been convicted of a separate offence in respect of each badger.

- (3) The court before whom any person is convicted of an offence under this Act shall order the forfeiture of any badger or skin thereof in respect of which the offence was committed and may, if they think fit, order the forfeiture of any weapon or article in respect of or by means of which the offence was committed.

#### Textual Amendments

**F33** S. 10(1)(b) repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), **Sch. 7 Pt. I**

**F34** Words substituted by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), **Sch. 7**, para. 11(1)

**F35** Words in s. 10(2) substituted (S.)(9.12.1991 with exception) by [Criminal Justice Act 1991 \(c. 53\)](#), s. **26(3)**; S.I. 1991/2706, **art. 2(1)(2)**

**F36** Words in s. 10(2) substituted (S.)(9.12.1991 with exception) by [Criminal Justice Act 1991 \(c. 53\)](#), s. **26(3)**; S.I. 1991/2706, **art. 2(1)(2)**

## 11 Interpretation.

In this Act, unless the context otherwise requires, the following expressions have the following meaning—

“ammunition” has the same meaning as in the <sup>M4</sup>Firearms Act 1968;

.....<sup>F30</sup>

“badger” means any animal of the species *Meles meles*;

[<sup>F31</sup>“badger sett” means any structure or place which displays signs indicating current use by a badger;]

“firearm” has the same meaning as in the Firearms Act 1968;

[<sup>F32</sup>“sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly.]



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#### **Textual Amendments**

- F30** Definitions “area of special protection” and “authorised person” repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), ss. 12, 73, Schs. 7 para. 9(5), 17 Pt. II
- F31** Definition in s. 11 inserted (25.10.1991) by [Badgers Act 1991 \(c. 36, SIF 4:5\)](#), ss. 5, 6(2).
- F32** Definition of “sale” substituted for definition of “local authority” by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), [Sch. 7 para. 12](#)

#### **Marginal Citations**

- M4** [1968 c. 27\(51:1\)](#).

## **12 Short title, extent and commencement.**

- (1) This Act may be cited as the Badgers Act 1973.
- (2) This Act does not extend to Northern Ireland.
- (3) This Act shall come into force at the expiry of six months beginning with the date of its passing.

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**Changes to legislation:**

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