



Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Protection of other animals

9 Protection of certain wild animals.

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
 - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
 - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;and in this subsection “the relevant provisions” means the provisions of this Part and of the ^{M1}Conservation of Wild Creatures and Wild Plants Act 1975.
- (4) Subject to the provisions of this Part, if any person intentionally [^{F1}or recklessly]—
 - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or
 - (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,he shall be guilty of an offence.

- [^{F2}(4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—
- (a) a dolphin or whale (cetacea), or

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- (b) a basking shark (*cetorhinus maximus*),
he shall be guilty of an offence.]
- (5) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

Textual Amendments

- F1** Words in s. 9(4) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 5(a) and by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 8(5); S.S.I. 2004/407, art. 2
- F2** S. 9(4A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 5(b)

Marginal Citations

- M1** 1975 c. 48.

10 Exceptions to s. 9.

- (1) Nothing in section 9 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the ^{M2}Agriculture Act 1947, or by the Secretary of State under section 39 of the ^{M3}Agriculture (Scotland) Act 1948; or
- (b) anything done under, or in pursuance of an order made under, the ^{M4}Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage

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to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3) (c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the Nature Conservancy Council [^{F3} for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects 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 16 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.

Textual Amendments

- F3** Words in s. 10(5) inserted (*I.4.1991*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 11\(2\)](#); [S.I. 1991/685, art.3](#).

Marginal Citations

- M2** 1947 c. 48.
M3 1948 c. 45.
M4 1981 c. 22.

11 Prohibition of certain methods of killing or taking wild animals.

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
 - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm; ^{F4} . . .
 - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, [^{F5} ; or
 - (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,]
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;

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- (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
- (c) uses for the purpose of killing or taking any such wild animal—
 - (i) any automatic or semi-automatic weapon;
 - (ii) any device for illuminating a target or sighting device for night shooting;
 - (iii) any form of artificial light or any mirror or other dazzling device; or
 - (iv) any gas or smoke not falling within paragraphs (a) and (b);
- (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; ^{F6} . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, ^{F7}; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,]

he shall be guilty of an offence.

- (3) Subject to the provisions of this Part, if any person—
 - (a) sets in position ^{F8} or knowingly causes or permits to be set in position] any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
 - (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,

he shall be guilty of an offence.

- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2)(b), (c), (d) or (e), ^{F9} and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.
- ^{F10}(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.]

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Textual Amendments

- F4** Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(2)(a)**, 3(3).
- F5** Word "or" and s. 11(1)(d) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(2)(b)**, 3(3).
- F6** Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(3)(a)**, 3(3).
- F7** Word "or" and s. 11(2)(f) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(3)(b)**, 3(3).
- F8** Words in s. 11(3)(a) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(4)**, 3(3).
- F9** Words in s. 11(5) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(5)**, 3(3).
- F10** S. 11(7) added (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(6)**, 3(3).

12 Protection of certain mammals.

Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.

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