



Badgers Act 1991

1991 CHAPTER 36

An Act to make provision for the protection of badger setts; and for connected purposes. [25th July 1991]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendment of s. 2 of Badgers Act 1973

At the end of section 2 (Offences of cruelty) of the Badgers Act 1973, there shall be added—

“(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.”

2 Amendment of s. 8 of Badgers Act 1973

(1) In section 8(1A) of the Badgers Act 1973—

- (a) after the words “under section 1(1)” there shall be inserted “or 2(3)”; and
- (b) after paragraph (b) there shall be inserted “or
- (c) the interfering with any badger sett.”

(2) At the end of section 8 of the Badgers Act 1973 there shall be added—

“(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.”

3 Extension of general exceptions

In Section 8 (General exceptions) of the Badgers Act 1973, at the end, there shall be inserted—

“(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.

(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.”

4 Amendment of s. 9 of Badgers Act 1973

In section 9 (Licences) of the Badgers Act 1973—

- (a) in subsection (1)(a), at the end, there shall be added “or to interfere with any badger sett within the said area by means so specified”;
- (b) in subsection (1)(d) after the words “to kill or take badgers” there shall be inserted “or to interfere with a badger sett”;
- (c) in subsection (1)(e) after the words “kill or take badgers” there shall be inserted “or to interfere with a badger sett”;
- (d) after subsection (1)(e) there shall be inserted—

“(f) for the purpose of any development as defined in section 55(1) of the Town and Country Planning Act 1990 or, as respects Scotland, section 19(1) of the Town and Country Planning (Scotland) Act 1972, to interfere with a badger sett within an area specified in the licence by any means so specified;

(g) for the purpose of any agricultural or forestry operation, to interfere with a badger sett within an area specified in the licence by any means so specified;

(h) for the purpose of any operation (whether by virtue of the Land Drainage Act 1976 or otherwise) to maintain or

- improve any existing watercourse or drainage works, or construct new works required for the drainage of any land, including works for the purpose of defence against sea water or tidal water, to interfere with a badger sett within an area specified in the licence by any means so specified;
- (i) for the purpose of investigating whether any offence has been committed or gathering evidence in connection with proceedings before any court, to interfere with a badger sett, within an area specified in the licence by any means so specified;
 - (j) for the purpose of the preservation, or archaeological investigation, of a monument scheduled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979, to interfere with a badger sett within an area specified in the licence by any means so specified;
 - (k) for the purpose of controlling foxes in order to protect livestock, game or wild life, to interfere with a badger sett within an area specified in the licence by any means so specified.”;
- (e) in subsection (2)(a), for “(b) or (c)” there shall be substituted “(b), (c), (f), (i) or (j)”;
 - (f) in subsection (2)(b), for “(d) or (e)” there shall be substituted “(d), (e), (g) or (h)”;
 - (g) after subsection (2)(b) there shall be inserted—
 - “(c) in the case of a licence under paragraph (k) of that subsection—
 - (i) in England, the Minister of Agriculture, Fisheries and Food or the Nature Conservancy Council for England;
 - (ii) in Wales, the Secretary of State or the Countryside Council for Wales; and
 - (iii) in Scotland, the Secretary of State or the Nature Conservancy Council for Scotland.”;
 - (h) the first subsection (4) (which provides for consultation by the Minister of Agriculture, Fisheries and Food and the Secretary of State with the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Countryside Council for Wales in the exercise of certain functions) shall be renumbered as subsection (5); and for “subsection (1) (e)” there shall be substituted, “subsection (1)(e), (g) or (h)”;
 - (i) at the end of that section there shall be inserted—
 - “(6) A licence under this section shall not be unreasonably withheld or revoked.”

5 Amendment of s. 11 of Badgers Act 1973

In section 11 (Interpretation) of the Badgers Act 1973, after the words “*Meles meles*;

 there shall be inserted—

““badger sett” means any structure or place which displays signs indicating current use by a badger;”.

6 Citation and commencement

- (1) This Act may be cited as the Badgers Act 1991.
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.