

SCHEDULES

SCHEDULE 12

Section 81(1).

AMENDMENTS RELATING TO PART I OF WILDLIFE AND COUNTRYSIDE ACT 1981

- 1 In section 1(5) of the 1981 Act (offence of intentional disturbance of wild birds) after “intentionally” there is inserted “or recklessly”.
- 2 In section 3 of that Act (areas of special protection) in subsection (1)(c) for “the offender shall be liable to a special penalty” there is substituted “the offence shall be treated as falling within section 7(3A)”.
- 3 In section 6 of that Act (sale etc. of live or dead wild birds, eggs etc.), in subsection (2) the words from “who is not” to “Secretary of State” are omitted.
- 4 (1) In section 7 of that Act (registration etc. of certain captive birds), in subsection (3) (a), for “for which a special penalty is provided” there is substituted “which falls within subsection (3A)”.
- (2) After subsection (3) of that section there is inserted—
 - “(3A) The offences falling within this subsection are—
 - (a) any offence under section 1(1) or (2) in respect of—
 - (i) a bird included in Schedule 1 or any part of, or anything derived from, such a bird,
 - (ii) the nest of such a bird, or
 - (iii) an egg of such a bird or any part of such an egg;
 - (b) any offence under section 1(5) or 5;
 - (c) any offence under section 6 in respect of—
 - (i) a bird included in Schedule 1 or any part of, or anything derived from, such a bird, or
 - (ii) an egg of such a bird or any part of such an egg;
 - (d) any offence under section 8.”.
- 5 In section 9 of that Act (protection of certain wild animals)—
 - (a) in subsection (4) after “intentionally” there is inserted “or recklessly”, and
 - (b) after that subsection there is inserted—
 - “(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
 - (b) a basking shark (cetorhinus maximus),he shall be guilty of an offence.”
- 6 In section 16(3) of that Act (power to grant licences) for “and (4)” there is substituted “, (4) and (4A)”.

7 In section 19 of that Act (enforcement of Part I), in subsection (3) for the words from “suspecting that” to “has been committed” there is substituted “suspecting that an offence under this Part has been committed”.

8 After that section there is inserted—

“19ZA Enforcement: wildlife inspectors

- (1) In this Part, “wildlife inspector” means a person authorised in writing by the Secretary of State under this subsection.
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised—
 - (a) enter and inspect any premises for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
 - (b) enter and inspect any premises where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
 - (c) enter any premises for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
 - (d) enter and inspect any premises for the purpose of verifying any statement or representation which has been made by an occupier, or any document or information which has been furnished by him, and which he made or furnished—
 - (i) for the purposes of obtaining (whether for himself or another) a relevant registration or licence, or
 - (ii) in connection with a relevant registration or licence held by him.
- (4) In subsection (3)—
 - (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
 - (i) a relevant registration or licence held by an occupier of the dwelling, or
 - (ii) an application by an occupier of the dwelling for a relevant registration or licence; and
 - (b) paragraph (c) does not confer any power to enter a dwelling.
- (5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector.
- (6) Any person who has in his possession or control any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.

- (7) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5), or
 - (b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),
- shall be guilty of an offence.
- (8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.
- (9) In this section—
- “relevant registration or licence” means—
- (a) a registration in accordance with regulations under section 7(1), or
 - (b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 9(5), 13(2) or 14; and
- “specimen” means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.

19ZB Power to take samples

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by section 19 is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample of blood or tissue in order to determine its identity or ancestry.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the constable suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by him in the exercise of powers conferred by section 19ZA(3)(a) to (c) in order to determine its identity or ancestry.
- (4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), 13(2) or 14 is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (5) No sample from a live bird, other animal or plant shall be taken pursuant to a requirement under this section unless the person taking it is satisfied on

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reasonable grounds that taking the sample will not cause lasting harm to the specimen.

(6) No sample from a live bird or other animal shall be taken pursuant to such a requirement except by a veterinary surgeon.

(7) Where a sample from a live bird or other animal is to be taken pursuant to such a requirement, any person who has possession or control of the specimen shall give the person taking the sample such assistance as he may reasonably require for that purpose.

(8) A constable entering premises under section 19(2), and any wildlife inspector entering premises under section 19ZA(3), may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be required for the exercise on the premises of powers under subsections (1) to (4).

(9) Any person who—

- (a) intentionally obstructs a wildlife inspector acting in the exercise of the power conferred by subsection (3),
- (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under subsection (2) or (4), or
- (c) fails without reasonable excuse to give any assistance reasonably required under subsection (7),

shall be guilty of an offence.

(10) In this section—

- (a) “specimen” has the same meaning as in section 19ZA, and
- (b) in relation to a specimen which is a part of, or is derived from, a bird, other animal or plant, references to determining its identity or ancestry are to determining the identity or ancestry of the bird, other animal or plant.”

9 (1) In section 20 of that Act (time limit for summary prosecution of certain offences under Part I)—

- (a) subsection (1) is omitted, and
- (b) in subsection (2) for “an offence to which this section applies” there is substituted “an offence under this Part”.

(2) Sub-paragraph (1) does not have effect in relation to any offence committed before the commencement of this paragraph.

10 (1) Section 21 of that Act (penalties, forfeitures etc. for offences under Part I) is amended as follows.

(2) For subsections (1) to (3) there is substituted—

“(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 or section 17 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”

(3) In subsection (4)—

- (a) in paragraph (a) for the words from “to a fine” to the end there is substituted “to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both”, and
- (b) in paragraph (b) for “to a fine” there is substituted “to imprisonment for a term not exceeding two years or to a fine, or to both”.

(4) After subsection (4) there is inserted—

“(4A) Except in a case falling within subsection (4B), a person guilty of an offence under section 19ZA(7) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4B) A person guilty of an offence under subsection (7) of section 19ZA in relation to a wildlife inspector acting in the exercise of the power conferred by subsection (3)(c) of that section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(4C) A person guilty of an offence under section 19ZA(8) shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(4D) A person guilty of an offence under section 19ZB(9) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

(5) In subsection (5) the words “, (2) or (3)” are omitted.

(6) Sub-paragraphs (1) to (5) and the repeal by this Act of provisions of the 1981 Act relating to special penalties do not have effect in relation to any offence committed before the commencement of this paragraph.

11 In section 24 of that Act (functions of the Nature Conservancy Councils), in subsection (4) for paragraph (c) there is substituted—

“(c) any wildlife inspector.”

12 In section 27 of that Act (interpretation of Part I), in subsection (1) after the definition of “wild plant” there is inserted—

““wildlife inspector” has the meaning given by section 19ZA(1).”

13 In section 24(2) of the Police and Criminal Evidence Act 1984 (arrestable offences), after paragraph (r) there is inserted—

“(s) an offence under section 1(1) or (2) or 6 of the Wildlife and Countryside Act 1981 (taking, possessing, selling etc. of wild birds) in respect of a bird included in Schedule 1 to that Act or any part of, or anything derived from, such a bird;

(t) an offence under any of the following provisions of the Wildlife and Countryside Act 1981—

(i) section 1(5) (disturbance of wild birds),

(ii) section 9 or 13(1)(a) or (2) (taking, possessing, selling etc. of wild animals or plants),

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(iii) section 14 (introduction of new species etc.)”