

Offence explanation

This annex outlines the key features of the offences we are responsible for enforcing. Further details on the sanctions that can be issued are provided in Annexes 2 to 4 and a summary table of all offences and their potential sanctions is shown at the start of each section and in Annex 5. The original legislation can be found on the national archives website¹².

Most of our offences are 'summary only' which means they can only be heard in the Magistrates Court. Some are 'triable either way' which means they can be heard either summarily in the Magistrates Court or as an indictable offence at the Crown Court. Indictable offences typically have higher penalties and no time limit to issue a summons providing we have caused no unreasonable delays.

At the time of writing this guidance the level of fines in the Magistrate court are:

- level 1 - £200;
- level 2 - £500;
- level 3 - £1000;
- level 4 - £2500;
- level 5/statutory maximum - £5000.

Where offences are triable either way they often attract higher penalties in the Magistrates Court e.g. if work is carried out in a SSSI without Natural England's consent that is an either way offence and the penalty in the Magistrates Court is £20,000 or an unlimited fine in the Crown Court. For all either way offences the fines that may be imposed by the Crown Court are unlimited.

¹² <http://www.legislation.gov.uk>

Environmental Damage Regulations

Work Area	Legislation	Section	Offence	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions				
				Advisory/Warning letter	RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction	
Environmental Damage Regulations	Environmental Damage (Prevention and Remediation) Regulations	13	Failing to prevent an imminent threat of environmental damage	x														x	x	x
Environmental Damage Regulations	Environmental Damage (Prevention and Remediation) Regulations	14	Failing to prevent further environmental damage	x														x	x	x
Environmental Damage Regulations	Environmental Damage (Prevention and Remediation) Regulations	20	Failure to comply with an EDR Remediation Notice	x							x							x	x	x
Environmental Damage Regulations	Environmental Damage (Prevention and Remediation) Regulations	31	Failure to comply with instructions given by an enforcing officer	x														x	x	x
Environmental Damage Regulations	Environmental Damage (Prevention and Remediation) Regulations	32	Failure to provide information to a enforcing officer	x														x	x	x

- 1 The Environmental Damage (Prevention and Remediation) Regulations 2009 apply where damage to land, water or biodiversity is extremely severe. Natural England is responsible for biodiversity damage on land, in which case damage must be severe enough to prevent certain species and habitats from achieving or maintaining their favourable conservation status at a UK range, or to adversely affect the integrity of the flora and fauna in a SSSI.
- 2 Should such a severe case of damage be imminent or occur the Regulations require immediate preventive measures and strict remedial requirements. Failure to comply with these requirements is an offence (Regulations 13, 14 and 20). Offences are also associated with general requirements to assist Natural England in enforcing the Regulations (Regulations 31 & 32).
- 3 Numerous activities are exempt from the Regulations – see the legislation for full details.
- 4 Should such severe damage occur and the preventive and remedial action is not taken, then we can serve notices requiring preventive or remedial action. See ‘EDR prevention and remediation notices’ in Annex 3. Should these notices not be complied with, then prosecution can be expected.
- 5 Offences are triable ‘either way’ in the Magistrates or Crown Court. There are no time limits to bringing prosecution proceedings providing we have not caused unreasonable delays. Penalties on summary conviction are a fine not exceeding the statutory maximum and/or 3 months imprisonment. Penalties on conviction are an unlimited fine and/or 2 years imprisonment.

6 Further detailed guidance on the Regulations has been produced by Defra¹³.

¹³ <http://www.defra.gov.uk/environment/policy/liability/pdf/indepth-guide-regs09.pdf>

Sites of Special Scientific Interest

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions		
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
SSSI	Wildlife and Countryside Act	28P(1)	Owner/occupier undertaking OLD without consent	x	x	x	x	x	x	x				x			x	x	x
SSSI	Wildlife and Countryside Act	28P(2) & (3)	Public body offences when carrying out operations themselves	x	x	x	x	x	x	x			x				x	x	x
SSSI	Wildlife and Countryside Act	28P(5A)	Public body offence when permitting operations	x	x	x	x	x	x	x							x	x	x
SSSI	Wildlife and Countryside Act	28P(6) & (6A)	Third party offences	x		x	x	x	x	x			x				x	x	x
SSSI	Wildlife and Countryside Act	28P(8)	Non-compliance with a Management Notice	x		x											x	x	x
SSSI	Wildlife and Countryside Act	28Q	Change of owner/occupier offence	x													x	x	x
SSSI	Wildlife and Countryside Act	28S(3)	Damage to a sign	x		x											x	x	x
SSSI	Wildlife and Countryside Act	31	Non-compliance with a SSSI Restoration Order	x									x				x	x	x
SSSI	Wildlife and Countryside Act	51	Obstruction	x		x											x	x	x

7 Sites of Special Scientific Interest (SSSIs) are protected by Part II of The Wildlife and Countryside Act 1981. This Act has been amended by section 80 of the Countryside and Rights of Way Act 2000, substituted by Schedule 9 to the Countryside and Rights of Way Act 2000 and is inserted by section 55 of the Natural Environment and Rural Communities Act 2006. For ease of reference, all offences relating to SSSIs will be cited here as 'Wildlife and Countryside Act 1981 (as amended)'.

8 The Act creates numerous offences including:

- Owners and occupiers carrying out operations in contravention of Section 28E (Section 28P(1));
- Public bodies carrying out or permitting operations without giving us notice (Sections 28P(2) & (5A));
- Public bodies carrying out operations without complying with certain requirements (Section 28P(3));
- Any person intentionally or recklessly damaging, destroying or disturbing an interest feature (Section 28P(6) & (6A));
- Failure to comply with restoration orders (Section 31(5)) or management notices (Section 28P(8));
- Owners failing to tell us that they have sold their SSSI land (Section 28Q(4));
- Tampering with signs (Section 28S(3));
- Obstructing officers exercising powers of entry (Section 51(4)).

- 9 Certain defences apply such as emergency operations and operations authorised by planning permission. See the Act for full details.
- 10 A wide range of sanctions are available for many of the offences, including a flexible suite of civil sanctions. See Annex 5 for full details.
- 11 Many of the offences can be tried 'either way', either summarily in the Magistrates Court or on indictment in the Crown Court. Fines cannot exceed £20,000 on summary conviction but are unlimited on conviction on indictment.
- 12 Detailed guidance on the SSSI regime is available on our website¹⁴.

¹⁴ http://www.naturalengland.org.uk/information_for/sssi_owners_and_occupiers/default.aspx

Heather and Grass Burning

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions			
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction	
Heather & Grass Burning	Hill Farming Act	20	Non-compliance Heather & Grass Burning (England) Regulations	x														x	x	x
Heather & Grass Burning	Hill Farming Act	34	Obstruction	x														x	x	x

- 13 The Heather and Grass etc. Burning (England) Regulations 2007 govern the burning of heather, rough grass, bracken, gorse and vaccinium. They aim to ensure burning takes place safely and in ways which do not harm the environment. They establish a burning season, ban certain practices completely and only allow others under licence. If the Regulations are breached an offence is committed under the Hill Farming Act 1946. This Act itself contains an offence of obstructing an officer exercising powers of entry. There is no offence of breaching a licence so any breach of a licence must be enforced by reference to the original offences.
- 14 These Regulations do not apply to land cultivated as private gardens or allotment gardens and certain Regulations do not apply to the burning of any specified vegetation carried out on railway land by or under the authority of Network Rail or Transport for London – see the Regulations for full details.
- 15 Sanctions are limited to an advisory/warning letter, simple caution or prosecution, or an injunction. In the future we hope a wider and more flexible suite of civil sanctions will also be available.
- 16 Offences are only triable summarily in the Magistrates Court within 6 months of the offence being committed. Fines are limited to level 3 on the standard scale or to level 2 where an officer exercising his powers of entry is obstructed.
- 17 Anyone burning semi-natural vegetation is strongly advised to comply with the Heather and Grass Burning Code¹⁵ and the best practice guides made under it. The Code contains further details of all the offences under these Regulations.

¹⁵ <http://www.naturalengland.org.uk/ourwork/regulation/burning/default.aspx>

Environmental Impact Assessment for uncultivated land and semi-natural areas

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions		
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	22	Carrying out a project without a decision	x	x	x				x							x	x	x
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	23	Carrying out work in contravention of a condition	x	x	x				x							x	x	x
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	24	Procuring a decision by supplying false information	x		x											x	x	x
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	26	Contravention of an EIA Stop Notice	x		x											x	x	x
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	28	Contravention of an EIA Remediation Notice	x													x	x	x
Uncultivated land and semi-natural areas	Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations	30	Obstruction	x		x											x	x	x

- 18 The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006 aim to protect uncultivated land and semi-natural areas from being damaged by projects that increase agricultural productivity. They also guard against possible negative environmental effects from the restructuring of rural land holdings.
- 19 Certain projects require screening decisions or consents before they commence. It is an offence to proceed with such projects without such authorisation (Regulation 22), or where a consent is granted, in breach of its conditions (Regulation 23). Other offences relate to supplying false information (Regulation 24) and obstructing or failing to assist a person exercising entry powers (Regulation 30).
- 20 The Regulations contain their own stop and remediation notices – see ‘EIA Stop and Remediation Notices’ in Annex 3. Offences are associated with failing to comply with these (Regulation 26 & 28) and are punishable by monetary penalty or prosecution. See Annex 5 for full details of the sanctions available for each offence.
- 21 Certain projects are exempt from the Regulations - see the legislation for full details.
- 22 Criminal proceedings must be taken within 2 years of the offence being committed and within 6 months of the Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met). Some offences can only be heard summarily in the Magistrates Court and fines are restricted to level 5 on the standard scale. Others are

triable 'either way' and fines are unlimited in the Crown Court. See the Regulations for full details.

- 23 Farmers and others who are considering works which may be in breach of these Regulations are strongly advised to consult our guidance on the Regulations¹⁶.

¹⁶ <http://www.naturalengland.org.uk/ourwork/regulation/eia/default.aspx>

Breaches of species licences and notices

- 24 A wildlife licence gives a person permission to carry out an activity affecting an animal or plant that would otherwise be illegal. Licences are only issued for certain purposes, which are set down in the law, and can only be issued where there is a valid justification. Licences may relate to persons or a class of person. A licence is subject to compliance with the specified conditions.
- 25 Licences are issued under the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations 2010, The Destructive Imported Animals Act 1932, Protection of Badgers Act 1992, Deer Act 1991 and the Conservation of Seals Act 1970. Further details on species licensing are available on our website¹⁷.
- 26 We also serve notices under the Food and Environment Protection Act 1985 to ensure compliance with the regulations on the use and storage of pesticides. Further details on this subject can be found on our website¹⁸.
- 27 We are responsible for enforcement action where licences and notices we have issued have been breached. The Police and Crown Prosecution Service are responsible for species offences committed by those without a licence.
- 28 The remainder of this section is restricted to information on the offences associated with breaches of species licences and notices we issue.

¹⁷ <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/default.aspx>

¹⁸ <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/enforcement/poisoning.aspx>

Legislation - Part I Wildlife and Countryside Act 1981

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions		
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Species licensing	Wildlife and Countryside Act	1	Birds, nests & eggs	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	3	Areas of Special Protection	x													x	x	x
Species licensing	Wildlife and Countryside Act	5	Methods of killing or taking birds	x	x	x		x									x	x	x
Species licensing	Wildlife and Countryside Act	6	Sale of birds, eggs etc	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	7	Bird registration	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	8	Captive birds	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	9	Animals	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	11	Methods of killing or taking animals	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	13	Plants	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	14	Species introductions	x	x	x	x	x									x	x	x
Species licensing	Wildlife and Countryside Act	14ZA	Sale invasive species	x													x	x	x
Species licensing	Wildlife and Countryside Act	17	False statements	x	x												x	x	x
Species licensing	Wildlife and Countryside Act	19XB	Obstruction etc	x	x												x	x	x

29 Many animal and plant species are protected by Part I of the Wildlife and Countryside Act 1981 (as amended). The Act creates various species offences and also gives powers to Natural England wildlife inspectors to assess compliance: Our enforcement activity is mainly focussed on the following sections of the Act:

1. Protection of wild birds, their nests and eggs;
3. Areas of Special Protection;
5. Prohibition of certain methods of killing or taking wild birds;
6. Sale etc. of live or dead wild birds, eggs etc;
7. Registration etc. of certain captive birds;
8. Protection of captive birds;
9. Protection of certain wild animals;
11. Prohibition of certain methods of killing or taking wild animals;
13. Protection of wild plants;
14. Introduction of new species etc;
- 14ZA. Sale etc. of invasive non-native species;
17. False statements made for obtaining registration or licence etc;
- 19XB. Offences in connection with enforcement powers.

30 Those offences within the remit of Natural England are those associated with breaches of licences that we have issued under Section 16 of the Act. As the Act contains no specific offence of breaching licence conditions, we must utilise the species offences for which

the licence does not provide a defence. In future we hope a specific offence of breaching a condition of a licence will be introduced into the Act.

- 31 A wide and complex range of defences and exceptions are provided by the Act. It is always advisable to consult the legislation for the full context and wording of offences, defences and exceptions (Exceptions in Section 2, 4 &10).
- 32 An adverse effect on the conservation status of the species does not have to be proved for an offence to have been committed although this is an important factor when we consider the appropriate level of enforcement action to pursue.
- 33 Civil sanctions are available for offences under the Act although in future we hope RES fixed monetary penalties and enforcement undertakings will be added. See Annex 5 for full details of the sanctions available for all offences.
- 34 All bar two of the offences are triable summarily in the Magistrates Court only and all proceedings must take place within 2 years of the offence being committed and within 6 months of the Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met). The maximum penalty for these offences is imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both. A person can be convicted of a separate offence in respect of each bird, egg, animal, plant or thing (Section 21).
- 35 One of the exceptions is the penalty for an offence under Section 14 which on summary conviction is imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both; or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both.
- 36 The other exception to the penalties above is the offence of obstructing or failing to assist a wildlife inspector (Section 19XB) in exercising their powers under this Act. This is triable either way and the penalty on summary conviction is to a fine not exceeding level 5 or, in relation to obstruction in connection with a section 14 offence, on conviction on indictment to an unlimited fine.

Legislation - Conservation of Habitats and Species Regulations 2010

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions				Criminal sanctions and injunctions				
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Species licensing	Conservation of Habitats and Species Regulations	58	Licence breach	x													x	x	x
Species licensing	Conservation of Habitats and Species Regulations	57	False statements	x													x	x	x
Species licensing	Conservation of Habitats and Species Regulations	119	Obstruction	x													x	x	x

- 37 Some animal and plant species are given a higher level of protection by the EU Habitats Directive which in England is implemented by the Conservation of Habitats and Species Regulations 2010.
- 38 These Regulations create a range of species offences but those specifically within the remit of Natural England are those associated with breaches of licences that we have issued. There is a specific offence of breaching licence conditions in the 2010 Regulations (Regulation 58).
- 39 We may consider other offences when linked to a licence situation either pre or post issue such as provision of false information (Regulation 57) or obstructing or failing to assist a wildlife inspector (Regulation 119).
- 40 Certain defences apply to Section 58 i.e. taking reasonable precautions and exercising all due diligence. See the legislation for full details.
- 41 Sanctions are limited to an advisory or warning letter, simple caution or prosecution, or an injunction. In the future we hope a wider and more flexible suite of 'RES' civil sanctions will also be available.
- 42 The offences of breaching a licence and providing false information are triable summarily in the Magistrates Court only and proceedings must take place within 2 years of the offence being committed and within 6 months of the Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met). The penalty for these offences is a fine not exceeding level 5 on the standard scale and/or imprisonment for a term not exceeding six months.
- 43 The offence of obstructing or failing to assist a wildlife inspector is only triable summarily in the Magistrates Court only. Proceedings must be brought within 6 months of the offence and the penalty is a fine not exceeding level 5 on the standard scale only.

Legislation - Destructive Imported Animals Act 1932 (as amended)

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions		
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Species licensing	Destructive Imported Animals Act	6	Licence breach	x	x	x	x	x	x								x	x	x
Species licensing	Destructive Imported Animals Act	6	Obstruction	x	x												x	x	x

- 44 The Destructive Imported Animals Act 1932 (as amended) creates a licensing requirement for those who wish to keep certain animals (including North American mink, grey squirrels, and coypu) in captivity. Natural England is concerned with breaches of licences that we have issued.
- 45 There is a specific offence of breaching licence conditions and obstructing a Wildlife Officer in the execution of his duties. Both offences are under Section 6 of this Act. The Act contains no statutory defences.
- 46 A wide range of flexible civil sanctions are available for these offences, although in future we hope RES Fixed Monetary Penalties will also be available. See Annex 5 for details.
- 47 Both offences are triable summarily in the Magistrates Court only and proceedings must take place within 2 years of the offence being committed and within 6 months of the Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met).
- 48 The penalty for breaching a licence condition is Level 1 on the sliding and a fine of £2 for every day on which the offence continues. The obstruction offence attracts a level 2 penalty.
- 49 The powers of wildlife inspectors in the Wildlife and Countryside Act 1981 are extended to this Act by virtue of Schedule 5 Part 2 of Natural Environment and Rural Communities Act 2006. The specific offences of obstructing and failing to give reasonable assistance to wildlife inspectors found in 19XB of the 1981 Act are extended as a result of an amendment in the Criminal Justice and Immigration Act 2008. The penalty for obstructing or failing to assist a wildlife inspector is on summary conviction to a fine not exceeding the statutory maximum.

Legislation - Protection of Badgers Act 1992 (as amended)

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions						Criminal sanctions and injunctions			
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction	
Species licensing	Protection of Badgers Act	10	Licence breach	x	x	x	x	x	x	x								x	x	x
Species licensing	Protection of Badgers Act	3	Sett interference	x	x	x	x	x	x	x								x	x	x

- 50 Badgers have specific legislation protecting them. This Act creates a licensing requirement and those offences within the remit of Natural England are breaches of licences that we have issued. Badgers are also given some protection by other legislation such as parts of Part I of the Wildlife and Countryside Act 1981 (as amended).
- 51 There is a specific offence of breaching licence conditions (Section 10). In some circumstances where there has been a breach of licence conditions it will be appropriate to apply sanctions for an offence of interfering with a badger sett (Section 3).
- 52 The status of the sett (i.e. main sett, outlier) does not have to be proved in enforcement action although this is an important factor when considering the appropriate sanction.
- 53 There are no defences specific to the offence of breach of licence conditions. However within the Act there are a series of defences and exceptions in relation to badgers and their setts including mercy killings and that the action was the incidental result of a lawful operation and could not reasonably have been avoided (Sections 6, 7, 8 & 9). See the Act for full details.
- 54 A wide range of sanctions are available for these offences, including a flexible suite of 'RES' civil sanctions. See Annex 5 for full details.
- 55 Both offences are triable summarily only in the Magistrates Court within 2 years of the offence being committed and within 6 months of the Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met). Fines for both offences cannot exceed level 5 on the standard scale. Interfering with a badger sett also carries a penalty of imprisonment for a term not exceeding six months, or both.
- 56 The powers of wildlife inspectors in the Wildlife and Countryside Act 1981 are extended to this Act by virtue of Schedule 5 Part 2 of Natural Environment and Rural Communities Act 2006. The specific offences of obstructing and failing to give reasonable assistance to wildlife inspectors found in 19XB of the 1981 Act are extended as a result of an amendment in the Criminal Justice and Immigration Act 2008. The penalty for obstructing or failing to assist a wildlife inspector is on summary conviction to a fine not exceeding the statutory maximum.

Legislation - Deer Act 1991

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions							Specialist civil sanctions					Criminal sanctions and injunctions			
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction	
Species licensing	Deer Act	8	Licence breach	x	x	x	x											x	x	x

- 57 Deer have specific legislation protecting them. This Act creates a licensing requirement and those offences within the remit of Natural England are breaches of licences that we have issued. Deer are also given some protection by other legislation such as Part I of the Wildlife and Countryside Act 1981 (as amended).
- 58 There is a specific offence of breaching licence conditions (Section 8).
- 59 There are no defences specific to the offence of breach of licence conditions. However there are a series of general defences and exceptions in relation to deer including mercy killings (Sections 6 & 7). See the Act for full details.
- 60 There is a partial suite of 'RES' civil sanctions applicable to this offence. In future we hope that RES Compliance Notice and RES Restoration Notice will also be available for this offence.
- 61 This offence is triable summarily only in the Magistrates Court within 2 years of the offence being committed and within 6 months of Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met).
- 62 The penalty for this offence is a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months, or to both.
- 63 The powers of wildlife inspectors in the Wildlife and Countryside Act 1981 are extended to this Act by virtue of Schedule 5 Part 2 of Natural Environment and Rural Communities Act 2006. The specific offences of obstructing and failing to give reasonable assistance to wildlife inspectors found in 19XB of the 1981 Act are extended as a result of an amendment in the Criminal Justice and Immigration Act 2008. The penalty for obstructing or failing to assist a wildlife inspector is on summary conviction to a fine not exceeding the statutory maximum.

Legislation – Conservation of Seals Act 1970

Work Area	Legislation	Section	Offence		RES civil sanctions							Specialist civil sanctions					Criminal sanctions and injunctions			
					Advisory/Warning letter	RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Species licensing	Conservation of Seals Act	10	Licence breach	x														x	x	x

- 64 Seals have specific legislation protecting them. This Act creates a licensing requirement and those offences within the remit of Natural England are breaches of licences that we have issued. Natural England issues licences in restricted circumstances as a result of an agreement with the Marine Maritime Organisation.
- 65 There is a specific offence of breaching licence conditions (Section 10).
- 66 There are no defences specific to the offence of a breach of licence conditions. However there are a series of general exceptions in relation to seals including tending and releasing seals, mercy killings, killing or injury as an incidental result of a lawful action, killing or attempts to kill a seal to prevent it causing damage to a fishing net or tackle (Section 9). See the Act for full details.
- 67 Sanctions are limited to an advisory/warning letter, simple caution, prosecution and injunction. In the future we hope a full suite of 'RES' civil sanctions will also be available for this offence.
- 68 This offence is triable summarily in the Magistrates Court only within 2 years of the offence being committed and within 6 months of Prosecutor certifying that sufficient evidence has been obtained (i.e. the evidential test has been met). The penalty for this offence is a fine not exceeding level 4 on the standard scale.
- 69 The powers of wildlife inspectors in the Wildlife and Countryside Act 1981 are extended to this Act by virtue of Schedule 5 Part 2 of Natural Environment and Rural Communities Act 2006. The specific offences of obstructing and failing to give reasonable assistance to wildlife inspectors found in 19XB of the 1981 Act are extended as a result of an amendment in the Criminal Justice and Immigration Act 2008. The penalty for obstructing or failing to assist a wildlife inspector is on summary conviction to a fine not exceeding the statutory maximum.

Legislation - Food and Environment Protection Act 1985 (FEPA) (as amended)

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions				Criminal sanctions and injunctions				
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Pesticides	Food and Environment Protection Act	19	Breach of approvals or regulations	x													x	x	x

- 70 Natural England officers assist the Chemicals Regulation Directorate (CRD) of the Health and Safety Executive (HSE) to regulate the impact of the use of pesticides on the environment and in particular on wildlife and companion animals. Our officers undertake the field enquiries into incidents accepted into the Wildlife Incident Investigations Scheme¹⁹. During such enquiries a range of pesticides can be encountered in hazardous situations that do not comply with Regulations and remedial action is required. This can often be achieved by issuing an Enforcement (Pesticide) Notice – see Annex 3 for more details on this notice.
- 71 Specifically where officers find what they believe to be pesticides that have lost their approval or are illegally decanted or held within inadequate storage facilities an Enforcement (Pesticide) Notice, requiring action such as proper disposal of the pesticide or bringing the store into line with HSE guidance, may be served. The authorised officer states in the Notice his opinion that an offence has or will continue to be committed and gives direction as to what is required by the recipient by a certain date. A public register of Enforcement Notices is held by CRD and is published on their website²⁰.
- 72 If an Enforcement Notice is breached enforcement action will be taken by CRD and is a summary only offence.

¹⁹ <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/enforcement/poisoning.aspx#wiis>

²⁰ <http://www.pesticides.gov.uk/>

Injurious Weeds

Work Area	Legislation	Section	Offence	Advisory/Warning letter	RES civil sanctions						Specialist civil sanctions					Criminal sanctions and injunctions			
					RES Fixed Monetary Penalty	RES Variable Monetary Penalty	RES Stop Notice	RES Compliance Notice	RES Restoration Notice	RES Enforcement Undertaking	EDR Prevention	EDR Remediation	SSSI Restoration Order	EIA Stop & remediation	Enf (Pesticides) Notice	Enf (Weeds) Notice	Simple caution	Prosecution	Injunction
Injurious weeds	Weeds Act	2	Failure to comply with an Enforcement (Weeds) Notice	x	x											x	x	x	x
Injurious weeds	Weeds Act	4	Obstruction	x	x											x	x	x	x

- 73 Five weeds are classified under the Weeds Act 1959: common ragwort (*Senecio jacobaea*), spear thistle (*Cirsium vulgare*), creeping or field thistle (*Cirsium arvense*), broad-leaved dock (*Rumex obtusifolius*) and curled dock (*Rumex Crispus*). It is not an offence to have these weeds growing on your land and species such as ragwort have significant conservation benefits. However problems can arise if they are allowed to spread onto agricultural land, particularly grazing areas or land which is used to produce conserved forage.
- 74 Under the Weeds Act 1959 Natural England²¹ has the power to serve a notice to require a land occupier to take action to prevent specified injurious weeds²² from spreading. Further details on this notice and when we will consider using it are in Annex 3 – see ‘Enforcement (Weeds) Notice’.
- 75 It is an offence to not comply with a notice (Section 2 of the Act) and to obstruct an officer exercising powers of entry (Section 4 of the Act).
- 76 A person will not be guilty of failing to comply with a notice if his failure was not unreasonable. There is no legal definition of unreasonable in this context nor has it been tested in case law. There is no statutory defence for obstructing an officer.
- 77 In a case where the land occupier fails to take the necessary action under a notice we can take the action required and recover the costs of doing so. This is likely to be our normal response although a variable monetary penalty, simple caution or prosecution may be considered in some circumstances. Obstruction of our officers is likely to result in a variable monetary penalty or prosecution dependent on the nature, severity and consequences of the obstruction.
- 78 Proceedings for both offences are triable summarily in the Magistrates Court only, they must be brought within 6 months of the offence being committed, and fines cannot exceed level 3 on the standard scale.

²¹ Natural England was authorised by the Secretary of State for Environment, Food and Rural Affairs to perform certain functions under the Weeds Act 1959 by an agreement made between the Secretary of State and Natural England on 29 September 2006 under section 78 of the Natural Environment and Rural Communities Act 2006.

²² Spear thistle (*Cirsium vulgare* (Savi) Ten.), creeping or field thistle (*Cirsium arvense* (L) Scop.), curled dock (*Rumex crispus* L.), broad-leaved dock (*Rumex obtusifolius* L.) and common ragwort (*Senecio jacobaea* L.)

- 79 Further details on how we enforce the Weeds Act, how to complain about infestations of injurious weeds and when we will consider using the above powers can be found on our website²³.

²³ <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/enforcement/injuriousweeds.aspx>