



**Law
Commission**
Reforming the law

Wildlife Law
Volume 2: Draft Legislation

**50
YEARS**

The Law Commission

(LAW COM No 362)

WILDLIFE LAW

VOLUME 2: DRAFT LEGISLATION

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THE LAW COMMISSION

The Law Commission was set up by the Law Commissions Act 1965 for the purpose of promoting the reform of the law.

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The terms of this report were agreed on 2 November 2015.

The text of this report is available on the Law Commission's website at <http://www.lawcom.gov.uk>.

¹ Lord Justice Lloyd Jones was Chairman of the Law Commission at the time this report was drafted and approved in principle. He was succeeded by Lord Justice Bean on 1 August 2015.

² Professor Elizabeth Cooke was a Law Commissioner at the time this report was drafted and approved in principle. She was succeeded by Professor Hopkins on 1 October 2015.

THE LAW COMMISSION

WILDLIFE LAW

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A
B I L L

TO

Make provision about the protection of wild birds, other wild animals and wild plants; to make provision about the control of pests and weeds; to restrict the introduction of certain species of animals and plants; to amend the law relating to poaching; and for connected purposes.

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:—

PART 1

PROTECTION OF BIRDS

Interpretation of Part 1

1 Definition of “protected species” and “wild bird” etc.

- (1) This section applies for the purposes of this Part. 5
- (2) A species of bird is a “protected species” if—
- (a) birds of the species naturally occur in a wild state within the European territory of any member State, or
 - (b) the species is listed in Schedule 1.
- (3) “Wild bird” means a bird which— 10
- (a) was not captive-bred, or
 - (b) was captive-bred but has been lawfully released into the wild as part of a re-population or re-introduction programme.
- (4) A bird is “captive-bred” if it is bred in captivity using birds which are lawfully in captivity when the egg is laid. 15
- (5) “Re-population” and “re-introduction” have the same meaning as in the Wild Birds Directive.
- (6) “Poultry” means—

- (a) domestic forms of fowls, geese, ducks, guinea-fowls, pigeons and quail, and
- (b) turkeys.

Killing, injuring or capturing birds etc.

2 Deliberately killing, injuring or capturing birds of a protected species etc. 5

- (1) Subject to sections 3, 4, 21, 23, 25 and 142(1), a person (P) commits an offence if –
- (a) P kills, injures or captures –
 - (i) a wild bird of a protected species, or
 - (ii) a bird of a species listed in Schedule 2 (protected game birds); and
 - (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that –
- (a) P intended to kill, injure or capture the bird in question;
 - (b) P’s actions presented a serious risk to birds of the relevant species unless reasonable precautions were taken and P –
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to birds of the relevant species whether or not reasonable precautions were taken and P was aware that that was the case.
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to birds of the relevant species by reference to –
- (a) the probability of one or more birds of that species being killed, injured or captured as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more birds of that species) on the distribution or abundance of any local population of birds of that species, or
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of birds of the relevant species.
- (5) In this section references to birds of the relevant species are to wild birds or birds (as the case may be) of the same species as the bird killed, injured or captured by P.

3 Exceptions to section 2: disabled birds

- (1) A person (P) does not commit an offence under section 2 by reason of capturing a bird (or killing or injuring a bird when attempting to capture it) if –
- (a) it has been disabled (otherwise than by P’s unlawful act),
 - (b) P captures it (or attempts to capture it) solely for the purpose of tending it and releasing it when no longer disabled, and
 - (c) capturing it –

- (i) is the only satisfactory way to help it recover, and
 - (ii) is not detrimental to the maintenance of the population of the species of bird at a favourable conservation status in its natural range.
 - (2) A person (P) does not commit an offence under section 2 by reason of killing a bird or capturing a bird for the purpose of killing it (or injuring a bird when attempting to do either of those things) if –
 - (a) it has been disabled (otherwise than by P's unlawful act),
 - (b) it has no reasonable chance of recovering, and
 - (c) killing it –
 - (i) is the only satisfactory way to end its suffering, and
 - (ii) is not detrimental to the maintenance of the population of the species of bird at a favourable conservation status in its natural range.
 - (3) In proceedings for an offence under section 2 it is for the defendant to show that the offence was not committed by reason of this section.
 - (4) But where the defendant shows that the conditions in paragraphs (a) and (b) of subsection (1) or (2) were satisfied the condition in paragraph (c) of that subsection is to be presumed to have been satisfied, unless the prosecution proves otherwise.
- 4 Exceptions to section 2: urgent action for certain purposes**
- (1) Subject to subsection (8), a person (P) does not commit an offence under section 2 by reason of taking action which kills or injures a bird if the conditions in subsections (2) to (7) are satisfied.
 - (2) The first condition is that the action was taken for the purpose of –
 - (a) preserving public health or safety,
 - (b) preserving air safety,
 - (c) preventing serious damage to crops, livestock, forests, fisheries or water, or
 - (d) protecting fauna from disease.
 - (3) The second condition is that the action had to be taken urgently to achieve that purpose.
 - (4) The third condition is that –
 - (a) P owned or occupied the land on which the action was taken, or
 - (b) P had been authorised to take the action by –
 - (i) an owner or occupier of that land, or
 - (ii) a competent authority.
 - (5) The fourth condition is that before or as soon as reasonably practicable after taking the action P notified –
 - (a) the Secretary of State (if the action was taken in England);
 - (b) the Welsh Ministers (if the action was taken in Wales).
 - (6) The fifth condition is that the bird was not of a kind listed in Schedule 3.
 - (7) The sixth condition is that the action –

- (a) was the only satisfactory way of achieving the purpose for which the action was taken, and
- (b) was not detrimental to the maintenance of the population of the species of bird at a favourable conservation status in its natural range.
- (8) This section does not make lawful any action taken by any person at any time if it had become apparent, before that time, that that action would prove necessary for a purpose mentioned in subsection (2) and either – 5
- (a) the person failed to apply for a licence under section 23 authorising that action as soon as reasonably practicable after that fact had become apparent, or 10
- (b) an application by the person for such a licence had been determined.
- (9) In proceedings for an offence under section 2 –
- (a) it is for the defendant to show that the conditions in subsections (2) to (6) were satisfied, but
- (b) where the defendant shows that those conditions were satisfied it is to be presumed that the condition in subsection (7) was satisfied, unless the prosecution proves otherwise. 15
- (10) In subsection (4)(b)(ii) “competent authority”, in relation to any action, means –
- (a) the local authority for the area in which the action is taken; 20
- (b) the water undertaker for the area in which the action is taken;
- (c) the sewerage undertaker for the area in which the action is taken;
- (d) an inshore fisheries and conservation authority, established under section 149 of the Marine and Coastal Access Act 2009, for the area in which the action is taken; 25
- (e) the Environment Agency, if the action is taken in England;
- (f) Natural England, if the action is taken in England;
- (g) the Natural Resources Body for Wales, if the action is taken in Wales;
- (h) the Welsh Ministers, if the action is taken in the Welsh inshore region for purposes relating to fishing or fisheries. 30
- (11) In subsection (10), “Welsh inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Wales.

5 Regulated devices, substances and activities

- (1) Subject to sections 23 and 25, a person (P) commits an offence if – 35
- (a) P uses a device or substance, or carries out an activity, to which subsection (2) applies; and
- (b) one of the conditions in subsection (3) is satisfied.
- (2) This subsection applies to –
- (a) a device, substance or activity that is listed in Schedule 4;
- (b) a device or substance, other than a device or substance listed in Schedule 4 – 40
- (i) that is capable of having a significant effect on the distribution or abundance of, or causing serious disturbance to, the population of a protected species of bird or a species listed in Schedule 2 in the area in which the device or substance is used, or 45

-
- (ii) that is of a kind that cannot be directed at a specific bird or species of bird;
- (c) a device or substance, other than a device or substance listed in Schedule 4, when used in such a way that it cannot be directed at a specific bird or species of bird. 5
- (3) The conditions are that—
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the killing, injuring or capturing of one or more birds of a species to which subsection (4) applies;
- (b) P’s actions presented a serious risk to birds of a species to which subsection (4) applies unless reasonable precautions were taken and P— 10
- (i) was aware that that was the case, but
- (ii) failed to take reasonable precautions;
- (c) P’s actions presented a serious risk to birds of a species to which subsection (4) applies whether or not reasonable precautions were taken and P was aware that that was the case. 15
- (4) This subsection applies to birds of—
- (a) a protected species, or
- (b) a species listed in Schedule 2. 20
- (5) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to birds of a species to which subsection (4) applies by reference to—
- (a) the probability of one or more birds of that species being killed, injured or captured as a result of P’s actions; 25
- (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more birds of that species) on the distribution or abundance of any local population of birds of that species, or
- (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 30
- (6) In each of paragraphs (a) and (b) of subsection (5) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of birds of the species in question.
- 6 Using vehicles etc. in the course of hunting birds 35**
- (1) Subject to sections 23 and 25, it is an offence to use a moving vehicle to which subsection (2) applies in the course of hunting birds of—
- (a) a protected species, or
- (b) a species listed in Schedule 2.
- (2) This subsection applies to— 40
- (a) a motor vehicle,
- (b) a mechanically propelled boat or other vessel, or
- (c) an aircraft.
- (3) “Motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads. 45

7 Taking or deliberately damaging protected bird eggs

- (1) In this section “protected bird egg” means an egg of a wild bird of a protected species.
- (2) Subject to sections 21, 23 and 25, it is an offence to take a protected bird egg from the wild. 5
- (3) Subject to sections 21, 23 and 25 a person (P) commits an offence if –
- (a) P damages or destroys a protected bird egg; and
 - (b) one of the conditions in subsection (4) is satisfied.
- (4) The conditions are that –
- (a) P intended to damage or destroy the egg in question; 10
 - (b) P’s actions presented a serious risk to eggs of wild birds of the relevant species unless reasonable precautions were taken and P –
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to eggs of wild birds of the relevant species whether or not reasonable precautions were taken and P was aware that that was the case. 15
- (5) For the purposes of subsection (4)(b) or (c), P’s actions may only be regarded as presenting a serious risk to eggs of wild birds of the relevant species by reference to – 20
- (a) the probability of one or more eggs of wild birds of that species being damaged or destroyed as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing damage to, or the destruction of, one or more eggs of wild birds of that species) on the distribution or abundance of any local population of wild birds of that species, or 25
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (6) In subsection (2)(a) and (b) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in damage to or the destruction of eggs of wild birds of the relevant species. 30
- (7) In this section “wild birds of the relevant species” means wild birds of the same species as that of the protected egg damaged or destroyed by P.
- (8) For the purposes of this section, anything done to an egg which prevents it from hatching may be treated as damage to, or destruction of, the egg. 35

Damage to nests etc. and causing disturbance to birds

8 Deliberately damaging etc. protected nests

- (1) In this section, “protected nest” means –
- (a) the nest of a wild bird of a species listed in Schedule 5; 40
 - (b) the nest of a wild bird of any other protected species while the nest is in use or being built.
- (2) Subject to sections 21, 23 and 25, a person (P) commits an offence if –

-
- (a) P—
- (i) damages or destroys a protected nest,
 - (ii) causes a protected nest to be removed from the place where it has been, or is being, built, or
 - (iii) obstructs access to a protected nest; and 5
- (b) one of the conditions in subsection (3) is satisfied.
- (3) The conditions are that—
- (a) P intended to damage, destroy, cause the removal of, or obstruct access to, the nest in question;
 - (b) P’s actions presented a serious risk to nests of birds of the relevant species unless reasonable precautions were taken and P— 10
 - (i) was aware that that was the case, but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to nests of birds of the relevant species whether or not reasonable precautions were taken, and P was aware of that fact. 15
- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to nests of birds of the relevant species by reference to—
- (a) the probability of P’s actions resulting in damage to or destruction of, the removal of, or the prevention of access to one or more nests of birds of that species; 20
 - (b) the potential effect of P’s actions (by virtue of causing damage to, destruction of, removal of, or the prevention of access to one or more nests of birds of that species) on the distribution or abundance of any local population of birds of that species, or 25
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (5) In subsection (3)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in damage to, the destruction of, the removal of, or the prevention of access to one or more nests of birds the relevant species. 30
- (6) In this section references to birds of the relevant species are to wild birds of the same species as the bird whose nest was the subject of P’s actions as mentioned in subsection (2)(a). 35
- 9 Deliberately damaging etc. protected breeding sites and resting places**
- (1) In this section, “protected breeding site or resting place” means a breeding site or resting place, other than a nest, of a wild bird of a species listed in Schedule 6.
- (2) Subject to sections 21, 23 and 25, a person (P) commits an offence if— 40
- (a) P—
 - (i) damages or destroys, or causes the deterioration of, a protected breeding site or resting place, or
 - (ii) obstructs access to a protected breeding site or resting place; and 45
 - (b) one of the conditions in subsection (3) is satisfied.

- (3) The conditions are that—
- (a) P intended to damage, destroy, cause the deterioration of, or prevent access to, the breeding site or resting place in question;
 - (b) P’s actions presented a serious risk to that breeding site or resting place unless reasonable precautions were taken and P—
 - (i) was aware that that was the case, but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to that breeding site or resting place whether or not reasonable precautions were taken, and P was aware of that fact.
- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to a breeding site or resting place by reference to—
- (a) the probability of P’s actions resulting in damage to or the destruction of, the deterioration of, or the prevention of access to that site or place;
 - (b) the potential effect of P’s actions (by virtue of causing damage to or the destruction of, the deterioration of, or the prevention of access to that site or place) on the distribution or abundance of any local population of birds of the relevant species, or
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (5) In subsection (3)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in damage to or the destruction of, the deterioration of, or the prevention of access to, the breeding site or resting place in question.
- (6) In subsection (4) the reference to birds of the relevant species is wild birds of the same species as the birds whose breeding site or resting place was the subject of P’s actions as mentioned in subsection (2)(a).

10 Deliberately disturbing a wild bird of a species listed in Schedule 7

- (1) Subject to sections 21, 23 and 25, a person (P) commits an offence if—
- (a) P disturbs a wild bird of a species listed in Schedule 7, and
 - (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that—
- (a) P intended to disturb the wild bird in question;
 - (b) P’s actions presented a serious risk to birds of the relevant species unless reasonable precautions were taken and P—
 - (i) was aware that that was the case, but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to birds of the relevant species whether or not reasonable precautions were taken, and P was aware that that was the case.
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to birds of the relevant species by reference to—
- (a) the probability of one or more birds of that species being disturbed as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the disturbance of one or more birds of that species) on the distribution or abundance of any local population of birds of that species, or

- (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the disturbance of birds of the relevant species. 5
- (5) In this section references to birds of the relevant species are to wild birds of the same species as the bird disturbed by P.

11 Deliberately disturbing local populations of wild birds of protected species

- (1) Subject to sections 21, 23 and 25, a person (P) commits an offence if—
 - (a) P causes disturbance to a local population of wild birds of a protected species; and 10
 - (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that—
 - (a) P intended to cause disturbance to the local population of wild birds in question; 15
 - (b) P’s actions presented a serious risk to that local population of wild birds unless reasonable precautions were taken and P—
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to that local population of wild birds whether or not reasonable precautions were taken, and P was aware that that was the case. 20
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to the local population of wild birds in question by reference to— 25
 - (a) the probability of that local population of wild birds being disturbed as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing disturbance to that local population of wild birds) on the distribution or abundance of birds of the relevant species within that local population; or 30
 - (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in disturbance to the local population of wild birds in question. 35
- (5) For the purposes of this section, a reference to causing disturbance to a local population of wild birds of any species includes, in particular, a reference to—
 - (a) any actions that are likely to impair the ability of wild birds of that species within that population— 40
 - (i) to survive,
 - (ii) to breed or to rear their young, or
 - (iii) in the case of a migratory species, to migrate; or
 - (b) any actions that are likely to have a significant effect on the distribution or abundance of birds of that species within that population. 45

*Possession, sale etc. of birds***12 Possessing wild birds of protected species etc.**

- (1) Subject to sections 13, 23, 25 and 142(3), it is an offence to –
- (a) be in possession of,
 - (b) be in control of, or 5
 - (c) transport,
- anything to which this section applies.
- (2) This section applies to –
- (a) any live or dead wild bird of a protected species;
 - (b) any part of such a bird; 10
 - (c) anything derived from such a bird;
 - (d) an egg, or any part of an egg, of such a bird.

13 Section 12: defences

- (1) In proceedings for an offence under section 12 which is alleged to have been committed in respect of a bird, a part of a bird or anything derived from a bird, it is a defence to show that the bird –
- (a) had not been killed or captured,
 - (b) had been lawfully killed or captured in the European territory of a member State,
 - (c) had been killed or captured in the European territory of a member State before the implementation date, or 20
 - (d) had been killed or captured otherwise than within the European territory of a member State.
- (2) But in proceedings for an offence under section 12 which is alleged to have been committed in respect of a live bird it is not a defence under subsection (1)(b) to show that the bird had been captured in England or Wales in a manner which was lawful by reason of section 3(1) (disabled birds) unless it is also shown that the defendant was in possession of the bird, was in control of the bird or (as the case may be) transported the bird solely for the purpose of –
- (a) tending it and releasing it when no longer disabled, or 30
 - (b) releasing it after it had been tended.
- (3) In proceedings for an offence under section 12 which is alleged to have been committed in respect of an egg or part of an egg, it is a defence to show that the egg or part –
- (a) had not been taken from the wild, 35
 - (b) had been taken from the wild in the European territory of a member State before the implementation date, or
 - (c) had been taken from the wild otherwise than within the European territory of a member State.
- (4) In this section – 40
- “implementation date” means –
- (a) in a case where the member State concerned became a member State on or before 7 April 1981, that date;

- (b) in a case where the member State concerned became a member State after that date, the date on which it became a member State;
- “lawfully” means without contravention of –
- (a) this Part; 5
 - (b) Part 1 of the Wildlife and Countryside Act 1981 and orders made under it;
 - (c) the Protection of Birds Act 1954 to 1967 and orders made under those Acts;
 - (d) section 3 of the Game Act 1831; 10
 - (e) any other legislation which implements the Wild Birds Directive and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976; 15
 - (f) the law of any member State (other than the United Kingdom) implementing the Wild Birds Directive.

14 Selling wild birds of protected species etc.

- (1) Subject to subsections (3) and (6) and sections 15, 23 and 25, it is an offence to – 20
 - (a) sell,
 - (b) offer for sale,
 - (c) expose for sale,
 - (d) be in possession of for the purpose of sale, or
 - (e) transport for the purpose of sale, 25anything to which this section applies.
- (2) This section applies to –
 - (a) any live or dead bird which is –
 - (i) a wild bird of a protected species, or
 - (ii) a bird of a species listed in Schedule 2; 30
 - (b) any part of such a bird;
 - (c) anything derived from such a bird;
 - (d) an egg, or any part of an egg, of such a bird.
- (3) It is not an offence under this section for a person (“P”) to do anything in respect of a bird within subsection (7), or in respect of any part of or anything derived from such a bird, unless the condition in subsection (4) or (5) is satisfied. 35
- (4) The condition in this subsection is that –
 - (a) the bird had been unlawfully killed or captured in the European territory of a member State, and 40
 - (b) P knew or had reason to believe that this was the case.
- (5) The condition in this subsection is that –
 - (a) the bird, part or thing had been unlawfully sold to P in the European territory of a member State, and
 - (b) P knew or had reason to believe that the sale was unlawful. 45

- (6) It is not an offence under this section for a person (“P”) to do anything in respect of an egg, or any part of an egg, of a bird within subsection (7) unless—
- (a) the egg or part had been unlawfully taken from the wild in the European territory of a member State, and
 - (b) P knew or had reason to believe that this was the case. 5
- (7) A bird is within this subsection if—
- (a) it is of a species listed in Schedule 2 and is not a wild bird, or
 - (b) it is of a species listed in Schedule 8.
- (8) In this section “unlawfully” means in contravention of—
- (a) this Part; 10
 - (b) Part 1 of the Wildlife and Countryside Act 1981 and orders made under it;
 - (c) the Protection of Birds Act 1954 to 1967 and orders made under those Acts;
 - (d) section 3 or 3A of the Game Act 1831; 15
 - (e) any other legislation which implements the Wild Birds Directive and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976; 20
 - (f) the law of any member State (other than the United Kingdom) implementing the Wild Birds Directive.

15 Section 14: defences

- (1) In proceedings for an offence under section 14 which is alleged to have been committed in respect of a bird, a part of a bird or anything derived from a bird, it is a defence to show that the bird—
- (a) had been killed or captured in the European territory of a member State before the implementation date, or
 - (b) had been killed or captured otherwise than in the European territory of a member State. 30
- (2) In proceedings for an offence under section 14 which is alleged to have been committed in respect of an egg or part of an egg, it is a defence to show that the egg or part—
- (a) had been taken from the wild in the European territory of a member State before the implementation date, or
 - (b) had been taken from the wild otherwise than in the European territory of a member State. 35
- (3) In this section “implementation date” means—
- (a) in a case where the member State concerned became a member State on or before 7 April 1981, that date; 40
 - (b) in a case where the member State concerned became a member State after that date, the date on which it became a member State.

16 Advertising the sale of wild birds of protected species etc.

Subject to section 23, it is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells or intends to 45

buy or sell things the sale of which would, taking account of the defences in section 15, constitute an offence under section 14(1)(a).

17 Further provision about possessing and disposing of certain birds

- (1) Subject to section 23, it is an offence to be in possession or control of a bird of a species listed in Schedule 9 (a “Schedule 9 bird”) if the bird has not been registered and ringed or marked in accordance with regulations made for the purposes of this section. 5
- (2) Subject to section 23, it is an offence for a person to be in possession or control of a Schedule 9 bird if –
 - (a) within the previous five years the person has been convicted of an offence within subsection (4), or 10
 - (b) within the previous three years the person has been convicted of an offence within subsection (5).
- (3) Subject to section 23, it is an offence to knowingly dispose of, or offer to dispose of, a Schedule 9 bird to a person who – 15
 - (a) has within the previous five years been convicted of an offence within subsection (4), or
 - (b) has within the previous three years been convicted of an offence within subsection (5).
- (4) The offences within this subsection are – 20
 - (a) an offence under any of sections 2, 7, 8, 9 or 12 in respect of –
 - (i) a bird of a species listed in Schedule 3 or 5,
 - (ii) the nest of such a bird,
 - (iii) any part of, or anything derived from, such a bird, or
 - (iv) an egg, or any part of an egg, of such a bird; 25
 - (b) an offence under section 10 or 11;
 - (c) an offence under section 14, 16 or 20 in respect of –
 - (i) a bird of a species listed in Schedule 3 or 5,
 - (ii) any part of, or anything derived from, such a bird, or
 - (iii) an egg, or any part of an egg, of such a bird; 30
 - (d) an offence under this section;
 - (e) an offence listed in section 7(3A) of the Wildlife and Countryside Act 1981;
 - (f) an offence under section 8 of that Act.
- (5) The offences within this subsection are – 35
 - (a) any offence under this Part or Part 2 of this Act or Part 1 of the Wildlife and Countryside Act 1981 so far as it relates to the protection of birds or other animals;
 - (b) any other offence involving the ill-treatment of birds or other animals.
- (6) For the purposes of subsections (2) and (3) a conviction is to be ignored if it has become spent for the purposes of the Rehabilitation of Offenders Act 1974. 40
- (7) The power to make regulations under subsection (1) includes power –
 - (a) to impose requirements which must be satisfied in relation to a bird before it can be registered in accordance with the regulations;
 - (b) to make different provision for different descriptions of birds. 45

- (8) The Secretary of State or the Welsh Ministers may charge such reasonable sum (if any) as the Secretary of State or the Welsh Ministers may determine in respect of any registration effected in accordance with regulations under subsection (1).

Other provisions about the protection of birds 5

18 Areas of special protection for wild birds

- (1) Subject to sections 23, 25 and 142, it is an offence for a person to do anything which regulations under this section provide is to be an offence under this section.
- (2) Regulations may specify an area and provide, with respect to that area, for all or any of the following –
- (a) that, except as may be provided in the regulations, it is to be an offence under this section for a person at any time or during a specified period to carry out specified actions within the area or any specified part of it (see subsection (3) for the kinds of actions which may be specified); 15
 - (b) that, except as may be provided in the regulations, it is to be an offence under this section for a person at any time or during a specified period to enter into that area or any specified part of it; and
 - (c) that where any offence under this Part, or any specified offence under this Part, is committed within the area, the offence is to be treated for the purposes of subsection (2) of section 17 as if it were an offence within subsection (4) of that section; 20
- and in this subsection “specified” means specified in the regulations.
- (3) Any actions specified for the purposes of subsection (2)(a) must fall within one of the following paragraphs –
- (a) killing, injuring or capturing a wild bird of a relevant species when one of the conditions set out in section 2(2) is satisfied in relation to P’s actions;
 - (b) taking an egg of a wild bird of a relevant species from the wild;
 - (c) damaging or destroying an egg of a wild bird of a relevant species when one of the conditions set out in section 7(4) is satisfied in relation to P’s actions; 30
 - (d) damaging or destroying the nest of a wild bird of a relevant species while it is in use or being built, causing such a nest to be removed from the place where it has been or is being built, or obstructing access to such a nest, when one of the conditions in section 8(3) is satisfied in relation to P’s actions; 35
 - (e) damaging, destroying or causing the deterioration of a breeding site or resting place (other than a nest) of a wild bird of a relevant species, or obstructing access to such a breeding site or resting place, when one of the conditions in section 9(3) is satisfied in relation to P’s actions; 40
 - (f) disturbing a wild bird of a relevant species, when one of the conditions in section 10(2) is satisfied in relation to P’s actions; or
 - (g) causing disturbance to the population of wild birds of a relevant species in the area in which the action is carried out, when one of the conditions in section 11(2) is satisfied; 45

and each reference above to conditions set out in a particular subsection of another section of this Act includes a reference to any provisions of this Act which affect the meaning of those conditions.

- (4) Regulations which contain provision specifying actions for the purposes of subsection (2)(a) must specify or describe the protected species of wild bird that are “relevant species” for the purposes of that provision. 5
- (5) Sections 3 and 4 apply to an offence under this section consisting of actions specified for the purposes of subsection (2)(a) as they apply to an offence under section 2.
- (6) The making of regulations under this section with respect to an area does not affect the exercise by any person of any right vested in that person, whether as owner or occupier of any land in that area or by virtue of a licence or agreement. 10

19 Regulations under section 18: supplementary

- (1) In this section “the regulations” means regulations to be made under section 18. 15
- (2) Before the regulations are made, particulars of the proposed regulations must be given –
 - (a) by notice in writing to every owner and every occupier of land included in the area with respect to which the regulations are to be made; and
 - (b) if giving notice to every such owner and occupier is regarded as impractical, by advertisement in a newspaper circulating in the locality in which that area is situated. 20
- (3) The regulations must not be made unless –
 - (a) all the owners and occupiers concerned have consented to the making of the regulations; 25
 - (b) no objections have been made by any of the owners or occupiers before the end of the period of three months beginning with the day after that on which the notice under subsection (2)(a) was given or the advertisement was first published; or
 - (c) any objections so made have been withdrawn. 30

20 Involving birds in competitions

- (1) Subject to section 23, it is an offence to show for the purposes of any competition, or in any premises in which a competition is being held, a live bird which is within subsection (2) or (3).
- (2) A bird is within this subsection if – 35
 - (a) it is a bird of a protected species, and
 - (b) it is not an exempted bird.
- (3) A bird is within this subsection if either of its parents was within subsection (2).
- (4) A bird is an “exempted bird” if – 40
 - (a) the bird –
 - (i) is of a species listed in Schedule 10, and
 - (ii) is not a wild bird,
 - (b) the bird is of a species listed in Schedule 2 (protected game birds), or

- (c) the bird is poultry.

Licensing and exemptions

21 Exemption for hunting certain birds outside the close season etc.

- (1) Sections 2 and 7 to 11 do not apply to anything done in the course of hunting birds of a species listed in the second column of Schedule 11 if the hunting is undertaken – 5
- (a) in compliance with any provision made by regulations, and
 - (b) otherwise than –
 - (i) during the period specified in respect of the species in the third column of Schedule 11; 10
 - (ii) on any day specified in respect of the species in the fourth column of that Schedule;
 - (iii) during a period designated by regulations as a period of special protection for the species.
- (2) The provision that may be made by regulations under subsection (1)(a) includes provision – 15
- (a) as to the areas in which hunting may be undertaken;
 - (b) as to the devices, substances and methods which may be used for undertaking hunting;
 - (c) permitting persons to undertake hunting only if they are registered in accordance with the regulations. 20
- (3) A period designated by regulations under subsection (1)(b)(iii) must not exceed 14 days.
- (4) Before making regulations under subsection (1)(b)(iii), the Secretary of State or (as the case may be) the Welsh Ministers must consult a person appearing to them to be representative of persons interested in the hunting of birds of the species to which the regulations relate. 25
- (5) The Secretary of State and the Welsh Ministers must make regulations under section 160(1)(a) which amend the period specified in the third column of Schedule 11 in respect of any species if it appears to them necessary to do so to ensure that the period includes – 30
- (a) the whole of the breeding season for the species;
 - (b) the times when birds of the species undergo the various stages of reproduction, and
 - (c) in a case where the species is a migratory species, the times when birds of the species return to their breeding areas. 35
- (6) The Secretary of State and the Welsh Ministers must ensure (by means of the power to make regulations under subsection (1)(a) and (b)(iii) and the power to make regulations under section 160(1)(a) which amend Schedule 11) that the hunting of birds of species listed in the second column of that Schedule – 40
- (a) does not jeopardise any conservation efforts taken in respect of any species of bird, animal or plant within its distribution area,
 - (b) complies with the principles referred to in Article 7.4 of the Wild Birds Directive (principles of “wise use” and “ecologically balanced control”), and 45

- (c) is compatible with any measures resulting from Article 2 of the Wild Birds Directive (measures to maintain population levels of birds etc.).

22 Section 21: monitoring of hunting

- (1) Regulations may make provision imposing on any person who hunts birds of a species listed in the second column of Schedule 11 such requirements as the Secretary of State or (as the case may be) the Welsh Ministers think fit for the purpose of enabling them to monitor the hunting of that species of bird. 5
- (2) Regulations under this section may provide that failing to comply with a requirement imposed by the regulations—
 - (a) is an offence punishable on summary conviction with a fine; 10
 - (b) is a ground on which a person may be removed from any register kept in accordance with regulations made by virtue of section 21(2)(c).

23 Licences

- (1) Sections 2, 5 to 12, 14, 16, 17, 18 and 20 do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under this section. 15
- (2) Subject to subsections (3) and (4), a licence under this section may be granted only for the following purposes—
 - (a) preserving public health or safety;
 - (b) preserving air safety; 20
 - (c) preventing serious damage to crops, livestock, forests, fisheries or water;
 - (d) protecting flora or fauna;
 - (e) research or teaching purposes;
 - (f) enabling the re-population of an area with birds or the re-introduction into an area of birds; 25
 - (g) enabling any breeding necessary for the purposes in paragraphs (e) or (f).
- (3) A licence under this section may be granted for any other purpose if—
 - (a) the appropriate authority is satisfied that there is an overriding public interest in pursuing the purpose, and 30
 - (b) the effect of the licence is to authorise the doing of things which would otherwise be an offence under section 9.
- (4) A licence under this section may be granted for any other purpose if—
 - (a) the effect of the licence is to authorise the capture, possession or other judicious use of birds, and 35
 - (b) the appropriate authority is satisfied—
 - (i) that the capture, possession or use of birds under the licence will be done under strictly supervised conditions, on a selective basis and to a limited extent, and 40
 - (ii) that granting the licence is consistent with the principle in subsection (5).
- (5) The principle is that no more than a small number of birds from any given population should be captured, possessed or used under licences granted by reason of subsection (4). 45

- (6) A licence under this section may not be granted unless the appropriate authority is satisfied that –
- (a) there is no other satisfactory way of achieving the purpose for which the licence is to be granted,
 - (b) granting the licence will not be detrimental to the maintenance of the population of any species of bird at a favourable conservation status in its natural range, and 5
 - (c) granting the licence is not contrary to the United Kingdom’s obligation to comply with –
 - (i) the Convention on the Conservation of Migratory Species of Wild Animals; 10
 - (ii) the Agreement on the Conservation of African-Eurasian Migratory Waterbirds;
 - (iii) the Agreement on the Conservation of Albatrosses and Petrels.
- (7) A licence under this section which authorises anything to be done in respect of birds must specify – 15
- (a) the species of birds in respect of which it may be done,
 - (b) the means, arrangements or methods which may or must be used in doing it,
 - (c) the times at which or the periods over which it may be done, and 20
 - (d) the places at which it may be done.
- (8) A licence under this section which is granted in reliance on subsection (4) must also –
- (a) specify the maximum number of birds which may be captured, possessed or otherwise used under the licence, and 25
 - (b) include such conditions as the appropriate authority thinks fit for –
 - (i) requiring reports to be made to the appropriate authority about the things done under the licence, and
 - (ii) otherwise enabling the appropriate authority to monitor the things done under the licence. 30
- (9) In this section –
- “the appropriate authority” means –
 - (a) in the case of a licence authorising anything to be done in England, the Secretary of State;
 - (b) in the case of a licence authorising anything to be done in Wales, the Welsh Ministers; 35
 - “livestock” includes any animal which is kept –
 - (a) for the purpose of food, wool, skins or fur;
 - (b) for the purpose of its use in the carrying on of any agricultural activity; or 40
 - (c) for the provision or improvement of shooting or fishing.

24 Licences: supplementary provisions

- (1) A licence under section 23 –
- (a) may be, to any degree, general or specific,
 - (b) may be granted to a particular person, to a class of persons or to persons generally, 45

- (c) may be subject to compliance with any conditions specified in the licence,
 - (d) may be modified or revoked at any time by the appropriate authority, and
 - (e) subject to paragraph (d), is valid for the period specified in the licence. 5
 - (2) For the purposes of subsection (1)(b), the definition of a class of persons may be framed by reference to any circumstances including, in particular, their being authorised by any other person.
 - (3) The appropriate authority may charge such reasonable sum (if any) as it may determine for the grant of a licence under section 23. 10
 - (4) In this section “appropriate authority” has the same meaning as in section 23.
 - (5) For further provision as to the exercise of functions under section 23 and this section, see section 117 (duty to consult and give reasons etc.).
- 25 Exemptions when acting in pursuance of certain orders etc.**
- Sections 2, 5 to 12, 14 and 18 do not apply to anything done – 15
- (a) in pursuance of an order under section 83 (pest control orders);
 - (b) under, or in pursuance of an order under, any provision of the Animal Health Act 1981.
- Supplementary*
- 26 Penalty for offences under Part 1** 20
- (1) A person who commits an offence under any provision of this Part is liable –
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 25
 - (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 12 months is to be read as a reference to 6 months.
- 27 Ringing, marking and registering captive-bred birds**
- (1) Regulations may make provision for, and in connection with, conferring on any specified person the function of ringing, marking or registering in a specified manner any bird which, on an application made in accordance with the regulations, appears to the person to be a bird which was captive-bred. 30
 - (2) In proceedings for an offence under this Part, any bird which has not been ringed, marked or registered in accordance with regulations under this section is to be presumed to be a bird which was not captive-bred, unless the defendant shows that it was captive-bred. 35
 - (3) In proceedings for an offence under this Part, any bird which has been ringed, marked or registered in accordance with regulations under this section is to be presumed to be a bird which was captive-bred unless the prosecution proves that – 40

- (a) it was not captive-bred, and
 - (b) the defendant knew or had reason to believe at the time of the alleged offence that it was not captive-bred.
- (4) Regulations under this section may include different provision in respect of different descriptions of bird. 5
- (5) The Secretary of State or the Welsh Ministers may charge such reasonable sum (if any) as the Secretary of State may determine in respect of the ringing, marking or registering of a bird in accordance with regulations under this section.
- (6) “Specified” means specified in regulations under this section. 10

PART 2

PROTECTION OF WILD ANIMALS

Interpretation of Part 2

28 Definition of “wild animal” etc.

- (1) This section applies for the purposes of this Part. 15
- (2) A reference to an animal –
- (a) includes a reference to an animal at any stage of development, including larva or pupa, but does not include a reference to an egg of an animal;
 - (b) does not include a reference to a bird. 20
- (3) “Wild animal” means an animal which –
- (a) was not captive-bred, or
 - (b) was captive-bred but has been lawfully released into the wild as part of a re-population or re-introduction programme.
- (4) An animal is “captive-bred” if it is bred in captivity using animals which are lawfully in captivity. 25
- (5) “Re-population” and “re-introduction” have the same meaning as in the Habitats Directive.
- (6) In proceedings for an offence under this Part relating to a wild animal, the animal in question is to be presumed to be a wild animal unless the contrary is shown. 30

Killing, injuring or capturing wild animals etc: general

29 Deliberately killing, injuring or capturing a wild animal: European protected species etc.

- (1) Subject to sections 31, 32, 67, 69 and 142(1), a person (P) commits an offence if – 35
- (a) P kills, injures or captures a wild animal of a species listed in Part 1 or 2 of Schedule 12, and
 - (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that –

- (a) P intended to kill, injure or capture the animal in question;
 - (b) P’s actions presented a risk to wild animals of the relevant species unless reasonable precautions were taken and P –
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a risk to wild animals of the relevant species whether or not reasonable precautions were taken, and P was aware that that was the case. 5
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to wild animals of the relevant species by reference to – 10
- (a) the probability of one or more wild animals of that species being killed, injured or captured as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more wild animals of that species) on the distribution or abundance of any local population of wild animals of that species, or
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 15
- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of wild animals of the relevant species. 20
- (5) In this section “wild animals of the relevant species” means wild animals of the same species as the animal killed, injured or captured by P. 25
- 30 Intentionally killing, injuring or capturing a wild animal: species protected in England and Wales**
- Subject to sections 31, 33, 67, 69 and 142(1), a person (P) commits an offence if –
- (a) P kills, injures or captures a wild animal of a species listed in Part 1 of Schedule 13; and
 - (b) P intended to kill, injure or capture the wild animal in question. 30
- 31 Exceptions to sections 29 and 30: disabled animals**
- (1) A person (P) does not commit an offence under section 29 or 30 by reason of capturing an animal (or killing or injuring an animal when attempting to capture it) if – 35
- (a) it has been disabled (otherwise than by P’s unlawful act),
 - (b) P captures it (or attempts to capture it) solely for the purpose of tending it and releasing it when no longer disabled, and
 - (c) capturing it –
 - (i) is the only satisfactory way to help it recover, and
 - (ii) is not detrimental to the maintenance of the population of the species of animal at a favourable conservation status in its natural range. 40
- (2) A person (P) does not commit an offence under section 29 or 30 by reason of killing an animal or capturing an animal for the purpose of killing it (or injuring an animal when attempting to do either of those things) if – 45

-
- (a) it has been disabled (otherwise than by P's unlawful act),
 - (b) it has no reasonable chance of recovering, and
 - (c) killing it—
 - (i) is the only satisfactory way to end its suffering, and
 - (ii) is not detrimental to the maintenance of the population of the species of animal at a favourable conservation status in its natural range. 5
- (3) In proceedings for an offence under section 29 or 30 it is for the defendant to show that the offence was not committed by reason of this section.
- (4) But where the defendant shows that the conditions in paragraphs (a) and (b) of subsection (1) or (2) were satisfied the condition in paragraph (c) of that subsection is to be presumed to have been satisfied, unless the prosecution proves otherwise. 10
- 32 Further exceptions to section 29: badgers**
- (1) A person does not commit an offence under section 29 by reason of killing or injuring a badger if the killing or injuring was the incidental result of a lawful operation and could not reasonably have been avoided. 15
- (2) A person does not commit an offence under section 29 by reason of killing, injuring or capturing a badger if the person's action was urgently necessary for the purpose of preventing serious damage to crops, livestock, forest, fisheries, water or other types of property. 20
- (3) But subsection (2) does not make lawful any action taken by any person (P) at any time if it had become apparent, before that time, that that action would prove necessary for a purpose mentioned in that subsection and either—
- (a) P failed to apply for a licence under section 67 authorising that action as soon as reasonably practicable after that fact had become apparent, or
 - (b) an application by P for such a licence had been determined. 25
- (4) In proceedings for an offence under section 29 it is for the defendant to show that the offence was not committed by reason of this section. 30
- 33 Further exceptions to section 30**
- (1) A person does not commit an offence under section 30 by reason of killing, injuring or capturing an animal if the killing, injuring or capturing was the incidental result of a lawful operation and could not reasonably have been avoided. 35
- (2) A person (P) does not commit an offence under section 30 by reason of killing or injuring an animal if—
- (a) P's action was urgently necessary for the purpose of preventing serious damage to crops, livestock, forest, fisheries, water or other types of property, and
 - (b) P—
 - (i) owned or occupied the land on which the action was taken,
 - (ii) had been authorised to take the action by an owner or occupier of that land, or40

- (iii) had been authorised to take the action by a competent authority (within the meaning given by section 4(10)).
- (3) But subsection (2) does not make lawful any action taken by any person (P) at any time if it had become apparent, before that time, that that action would prove necessary for a purpose mentioned in that subsection and either – 5
 - (a) P failed to apply for a licence under section 67 authorising that action as soon as reasonably practicable after that fact had become apparent, or
 - (b) an application by P for such a licence had been determined.
- (4) In proceedings for an offence under section 30 it is for the defendant to show that the offence was not committed by reason of this section. 10

34 Taking or deliberately damaging eggs: European protected species

- (1) In this section “protected animal egg” means an egg of a wild animal of a species listed in Part 1 of Schedule 12.
- (2) Subject to sections 67 and 69, it is an offence to take a protected animal egg from the wild. 15
- (3) Subject to sections 67 and 69, a person (P) commits an offence if –
 - (a) P damages or destroys a protected animal egg; and
 - (b) one of the conditions in subsection (4) is satisfied.
- (4) The conditions are that – 20
 - (a) P intended to cause damage to, or the destruction of, the egg in question;
 - (b) P’s actions presented a serious risk to eggs of wild animals of the relevant species unless reasonable precautions were taken and P – 25
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to eggs of wild animals of the relevant species whether or not reasonable precautions were taken and P was aware that that was the case.
- (5) For the purposes of subsection (4)(b) or (c), P’s actions may only be regarded as presenting a serious risk to eggs of wild animals of the relevant species by reference to – 30
 - (a) the probability of one or more eggs of wild animals of that species being damaged or destroyed as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing damage to, or the destruction of, one or more eggs of wild animals of that species) on the distribution or abundance of any local population of wild animals of that species, or 35
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 40
- (6) In subsection (4)(a) and (b) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in damage to or the destruction of, eggs of wild animals of the relevant species.
- (7) In this section “wild animals of the relevant species” means wild animals of the same species as that of the protected egg damaged or destroyed by P. 45

- (8) For the purposes of this section and section 35, anything done to an egg which prevents it from hatching may be treated as damage to, or destruction of, the egg.

35 Taking or intentionally damaging eggs: species protected in England and Wales 5

- (1) Subject to sections 67 and 69, it is an offence to take from the wild an egg of a wild animal of a species listed in Part 1 of Schedule 13.
- (2) Subject to sections 67 and 69, a person (P) commits an offence if P—
- (a) damages or destroys an egg of a wild animal of a species listed in Part 1 of Schedule 13; and 10
- (b) P intended to damage or destroy the egg.

Killing, injuring or capturing wild animals: prohibition of certain methods

36 Regulated devices, substances and activities: European protected species etc.

- (1) Subject to sections 67 and 69, a person (P) commits an offence if—
- (a) P uses a device or substance, or carries out an activity, to which subsection (2) applies; and 15
- (b) one of the conditions in subsection (3) is satisfied.
- (2) This subsection applies to—
- (a) a device, substance or activity that is listed in Part 1 of Schedule 15;
- (b) a device or substance, other than a device or substance listed in Schedule 15 that is— 20
- (i) capable of having a significant effect on the distribution or abundance of, or causing serious disturbance to, the population of a species listed in Schedule 14 in the area in which the device or substance is used, or 25
- (ii) of a kind that cannot be directed at a specific animal or species of animal;
- (c) a device or substance, other than a device or substance listed in Schedule 15, when used in such a way that it cannot be directed at a specific animal or species of animal; and 30
- (d) a device, substance or activity that is specified in the second column of the table in Part 2 of Schedule 15 in an entry relating to animals of a kind specified in the first column of that table, when used or carried out in relation to wild animals of that kind.
- (3) The conditions are that— 35
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the killing, injuring or capturing of one or more wild animals of a species listed in Schedule 14;
- (b) P's actions presented a serious risk to wild animals of a species listed in Schedule 14 unless reasonable precautions were taken and P— 40
- (i) was aware that that was the case, but
- (ii) failed to take reasonable precautions;
- (c) P's actions presented a serious risk to wild animals of a species listed in Schedule 14 whether or not reasonable precautions were taken and P was aware that that was the case. 45

- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to wild animals of a species by reference to –
- (a) the probability of one or more wild animals of that species being killed, injured or captured as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more wild animals of that species) on the distribution or abundance of any local population of wild animals of that species, or 5
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 10
- (5) In each of paragraphs (b) and (c) of subsection (3) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of wild animals of the species in question.
- 37 Regulated devices, substances and activities: other wild animals 15**
- (1) Subject to sections 67, 69 and 90, a person (P) commits an offence if –
- (a) P uses a device or substance, or carries out an activity, that is listed in Part 1 of Schedule 16; and
 - (b) P intended to use the device or substance, or to carry out the activity, for or in connection with the purpose of killing, injuring or capturing a relevant wild animal. 20
- (2) In this section “relevant wild animal” means a wild animal other than –
- (a) a wild animal of a species listed in Part 1, 2 or 3 of Schedule 14,
 - (b) a stoat (as defined in section 38(7)),
 - (c) a weasel (as defined in section 39(7)), or 25
 - (d) a protected deer.
- 38 Regulated devices, substances and activities: stoats**
- (1) Subject to sections 67 and 69, a person (P) commits an offence if –
- (a) P uses a device or substance, or carries out an activity, to which subsection (2) applies; and 30
 - (b) one of the conditions in subsection (4) is satisfied.
- (2) This subsection applies to –
- (a) a device, substance or activity that is listed in Schedule 17;
 - (b) a device or substance, other than a device or substance listed in Schedule 17 or an excluded device or substance – 35
 - (i) that is capable of having a significant effect on the distribution or abundance of, or causing serious disturbance to, the population of stoats in the area in which the device or substance is used, or
 - (ii) that is of a kind that cannot be directed at a specific animal or species of animal; 40
 - (c) a device or substance, other than a device or substance listed in Schedule 17 or an excluded device or substance, when used in such a way that it cannot be directed at a specific animal or species of animal.

- (3) For the purposes of subsection (2) an “excluded device or substance” is a device or substance referred to in any of paragraphs (b) to (h) in the first entry in the second column of the table in Part 2 of Schedule 15 (mammals: regulated devices etc.).
- (4) The conditions are that— 5
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the purpose of killing, injuring or capturing a stoat;
 - (b) P’s actions presented a serious risk to stoats unless reasonable precautions were taken, and P— 10
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to stoats whether or not reasonable precautions were taken, and P was aware that that was the case.
- (5) For the purposes of subsection (4)(b) or (c), P’s actions may only be regarded as presenting a serious risk to stoats by reference to— 15
- (a) the probability of one or more stoats being killed, injured or captured as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more stoats) on the distribution or abundance of any local population of stoats; or 20
 - (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (6) In subsection (4)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of stoats. 25
- (7) In this section and section 37, “stoat” means a wild animal of the species *Mustela erminea*.
- 39 Regulated devices, substances and activities: weasels**
- (1) Subject to sections 67 and 69, a person (P) commits an offence if— 30
- (a) P uses a device or substance, or carries out an activity, to which subsection (2) applies; and
 - (b) one of the conditions in subsection (4) is satisfied.
- (2) This subsection applies to—
- (a) a device, substance or activity that is listed in Schedule 18; 35
 - (b) a device or substance, other than a device or substance listed in Schedule 18 or an excluded device or substance—
 - (i) that is capable of having a significant effect on the distribution or abundance of, or causing serious disturbance to, the population of weasels in the area in which the device or substance is used, or 40
 - (ii) that is of a kind that cannot be directed at a specific animal or species of animal;
 - (c) a device or substance, other than a device or substance listed in Schedule 18 or an excluded device or substance, when used in such a way that it cannot be directed at a specific animal or species of animal. 45

- (3) For the purposes of subsection (2) “excluded device or substance” means –
- (a) a snare, other than a regulated snare (as defined in Part 2 of Schedule 16);
 - (b) a trap, other than a spring trap;
 - (c) a device or substance referred to in any of paragraphs (b) to (h) in the first entry in the second column of the table in Part 2 of Schedule 15 (mammals: regulated devices etc.).
- (4) The conditions are that –
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the purpose of killing, injuring or capturing a weasel;
 - (b) P’s actions presented a serious risk to weasels unless reasonable precautions were taken, and P –
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to weasels whether or not reasonable precautions were taken, and P was aware that that was the case.
- (5) For the purposes of subsection (4)(b) or (c), P’s actions may only be regarded as presenting a serious risk to weasels by reference to –
- (a) the probability of one or more weasels being killed, injured or captured as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more weasels) on the distribution or abundance of any local population of weasels; or
 - (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (6) In subsection (4)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of weasels.
- (7) In this section and section 37, “weasel” means a wild animal of the species *Mustela nivalis*.

40 Regulated devices, substances and activities: protected deer

- (1) Subject to sections 42, 67 and 69, a person (P) commits an offence if –
- (a) P uses a device or substance, or carries out an activity, to which subsection (2) applies; and
 - (b) one of the conditions in subsection (4) is satisfied.
- (2) This subsection applies to –
- (a) a device, substance or activity that is listed in Schedule 19;
 - (b) a device or substance, other than a device or substance listed in Schedule 19 or an excluded device –
 - (i) that is capable of having a significant effect on the distribution or abundance of, or causing serious disturbance to, the population of deer of any kind in the area in which the device or substance is used, or
 - (ii) that is of a kind that cannot be directed at a specific animal or species of animal; and

- (c) the use of a device or substance, other than a device or substance listed in Schedule 19 or an excluded device, in such a way that it cannot be directed at a specific animal or species of animal.
- (3) For the purposes of subsection (2) an “excluded device” is a device referred to in Schedule 20. 5
- (4) The conditions are that—
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the purpose of killing, injuring or capturing one or more protected deer of any kind;
- (b) P’s actions presented a serious risk to protected deer of any kind unless reasonable precautions were taken, and P— 10
- (i) was aware that that was the case; but
- (ii) failed to take reasonable precautions;
- (c) P’s actions presented a serious risk to protected deer of any kind whether or not reasonable precautions were taken, and P was aware that that was the case. 15
- (5) For the purposes of subsection (4)(b) or (c), P’s actions may only be regarded as presenting a serious risk to protected deer of any kind by reference to—
- (a) the probability of one or more protected deer of that kind being killed, injured or captured as a result of P’s actions; 20
- (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more protected deer of that kind) on the distribution or abundance of any local population of protected deer of that kind; or
- (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 25
- (6) In subsection (4)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of protected deer of the kind in question. 30

41 Protected deer: devices and activities regulated during close season

- (1) Subject to sections 42, 67 and 69, a person (P) commits an offence if—
- (a) P uses a device, or carries out an activity, that is listed in Schedule 20; and
- (b) one of the conditions in subsection (2) is satisfied. 35
- (2) The conditions are that—
- (a) P intended to use the device or substance, or to carry out the activity, for or in connection with the purpose of killing, injuring or capturing a protected deer of any kind during the relevant close season;
- (b) the use of the device or the carrying out of the activity presented a serious risk to protected deer of any kind during the relevant close season unless reasonable precautions were taken and P— 40
- (i) was aware that that was the case; but
- (ii) failed to take reasonable precautions;
- (c) the use of the device or the carrying out of the activity presented a serious risk to protected deer of any kind during the relevant close 45

- season whether or not reasonable precautions were taken and P was aware that that was the case.
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to protected deer of any kind during the relevant close season by reference to – 5
- (a) the probability of one or more protected deer of that kind being killed, injured or captured during the relevant close season as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more protected deer of that kind during the relevant close season) on the distribution or abundance of any local population of protected deer of that kind, or 10
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (4) In subsection (2)(a) and (b) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of protected deer of the kind in question during the relevant close season. 15
- (5) In this section “relevant close season”, in relation to a protected deer of a species or other description mentioned in Part 1 of Schedule 25, means the period specified, for the purposes of this section, in that Part of that Schedule for deer of that kind. 20

42 Exceptions to sections 40(1) and 41(1): protected deer

- (1) A person (P) does not commit an offence under section 40(1) by reason of using a net or trap for, or in connection with, the purpose of killing or capturing a protected deer if – 25
- (a) the deer has been disabled (otherwise than by P’s unlawful act) or is diseased, and
 - (b) using the net or trap – 30
 - (i) is the only satisfactory way of ending the deer’s suffering, and
 - (ii) is not detrimental to the maintenance of the population of the species of deer at a favourable conservation status in its natural range.
- (2) A person (P) does not commit an offence under section 40(1) or 41(1) by reason of using any device or substance, or carrying out any activity, for the purpose of killing a protected deer if – 35
- (a) the deer has been disabled (otherwise than by P’s unlawful act) or is diseased,
 - (b) the deer has no reasonable chance of recovering,
 - (c) using the device or substance or carrying out the activity – 40
 - (i) could reasonably be expected to result in the deer rapidly losing consciousness and dying, and
 - (ii) is appropriate in all the circumstances (including, in particular, what the deer is doing, its size, its distance from the closest position safely attainable by P and its position in relation to vegetative cover), and 45
 - (d) using the device or substance or carrying out the activity –
 - (i) is the only satisfactory way of ending the deer’s suffering, and

- (ii) is not detrimental to the maintenance of the population of the species of deer at a favourable conservation status in its natural range.
- (3) In proceedings for an offence under section 40(1) or 41(1) it is for the defendant to show that the offence was not committed by reason of this section 5
- (4) But where the defendant shows that the condition in paragraph (a) of subsection (1) was satisfied or that the conditions in paragraphs (a), (b), and (c) of subsection (2) were satisfied the remaining condition in paragraph (b) or (as the case may be) paragraph (d) of the subsection is to be presumed to have been satisfied, unless the prosecution proves otherwise. 10
- 43 Regulated devices, substances and activities: additional protection for certain species**
- (1) It is an offence for a person to use a relevant regulated device for the purpose of killing, injuring or capturing a wild animal of a species that is specified in the second column of the table in Part 1 of the Schedule 21. 15
- (2) Subject to sections 44, 45, 67 and 69, it is an offence for a person to use a relevant regulated device for the purpose of killing, injuring or capturing –
- (a) a wild animal of a species that is specified in the second column of the table in Part 2 of Schedule 21, or
- (b) a protected deer. 20
- (3) In this section “relevant regulated device” means –
- (a) in relation to a wild animal of a species that is specified in the second column of the table in Part 1 or Part 2 of Schedule 21, a device that is specified, in respect of that species, in the third column of the table;
- (b) in relation to a protected deer, a device that is listed in Part 3 of Schedule 21. 25
- 44 Exceptions to section 43: protected deer**
- (1) It is not an offence under section 43(2) for a person (P) to use any device for the purpose of killing a protected deer if –
- (a) the deer has been disabled (otherwise than by P’s unlawful act) or is diseased, 30
- (b) the deer has no reasonable chance of recovering, and
- (c) using the device –
- (i) could reasonably be expected to result in the deer rapidly losing consciousness and dying, and 35
- (ii) is appropriate in all the circumstances (including, in particular, what the deer is doing, its size, its distance from the closest position safely attainable by P and its position in relation to vegetative cover).
- (2) It is not an offence under section 43(2) for a person to use a rifle of a kind listed in paragraph 1(b) of Part 3 of Schedule 21 for the purpose of killing or injuring any Chinese water deer (*Hydropotes inermis*) or muntjac deer (*Muntiacus reevesi*) if – 40
- (a) it has a calibre of not less than 0.56 centimetres (0.220 inches) and a muzzle energy of not less than 1,356 joules (1000 foot pounds), and 45

- (b) it is used with a soft-nosed or hollow-nosed bullet weighing not less than 3.24 grammes (50 grains).
- (3) It is not an offence under section 43(2) for a person to use a smooth-bore gun (and a cartridge for use in such a gun) for the purpose of killing a protected deer if – 5
 - (a) the gun is used as a slaughtering instrument,
 - (b) the gun is of not less gauge than 12 bore,
 - (c) the gun has a barrel less than 60.96 centimetres (24 inches) in length, and
 - (d) the cartridge purports to contain shot none of which is less than 0.52 centimetres (0.203 inches) in diameter (that is to say, size AAA or any larger size). 10
- (4) It is not an offence under section 43(2) for a person (P) to use a smooth-bore gun (and a cartridge for use in such a gun) for the purpose of killing a protected deer on any land if – 15
 - (a) the gun is of not less gauge than 12 bore,
 - (b) the cartridge contains a single non-spherical projectile weighing not less than 22.68 grammes (350 grains) or purports to contain shot each of which is 0.52 centimetres (0.203 inches) in diameter (that is to say, size AAA), 20
 - (c) P has reasonable grounds for believing –
 - (i) that deer of the species concerned are causing or have caused damage on the land concerned to crops, vegetables, fruit, growing timber or any other form of property,
 - (ii) that further damage will be so caused and will be serious, and 25
 - (iii) that it is necessary to kill the deer for the purpose of preventing such damage, and
 - (d) P is one of the following –
 - (i) the occupier of the land concerned,
 - (ii) a member of the occupier’s household normally resident on the land, acting with the authority of the occupier, 30
 - (iii) a person in the ordinary service of the occupier on the land, acting with the authority of the occupier,
 - (iv) a person having the right to kill or take deer on the land concerned, or 35
 - (v) a person acting with the authority of a person having the right mentioned in sub-paragraph (iv).
- (5) In proceedings for an offence under section 43(2) it is for the defendant to show that the offence was not committed by reason of this section.
- (6) Regulations may, either generally or in relation to any area or any species and description of deer specified in the regulations – 40
 - (a) repeal subsection (4);
 - (b) amend subsection (4) so as to –
 - (i) add to the types of firearm or ammunition mentioned in it;
 - (ii) remove, or alter the description of, any type of firearm or ammunition mentioned in it; 45
 - (c) amend subsection (4) by –
 - (i) adding further conditions;
 - (ii) varying or deleting any conditions added.

45 Exception to section 43: seals

- (1) It is not an offence under section 43(2) for a person (P) to use any firearm for the purpose of killing a seal if –
- (a) the seal has been disabled (otherwise than by P’s unlawful act),
 - (b) the seal has no reasonable chance of recovering, and 5
 - (c) the firearm –
 - (i) could reasonably be expected to result in the seal rapidly losing consciousness and dying, and
 - (ii) is appropriate in all the circumstances (including, in particular, what the seal is doing, its size and its distance from the closest position safely attainable by P). 10
- (2) In proceedings for an offence under section 43(2) it is for the defendant to show that the offence was not committed by reason of this section.

46 Using vehicles etc. in the course of hunting protected wild animals

- (1) Subject to sections 47, 67 and 69, it is an offence to use a moving vehicle to which subsection (2) applies in the course of hunting – 15
- (a) protected animals, or
 - (b) protected deer.
- (2) This subsection applies to –
- (a) a motor vehicle, 20
 - (b) a mechanically propelled boat or other vessel, or
 - (c) an aircraft.
- (3) In this section –
- (a) “protected animal” means a wild animal of a species listed in Part 1, 2 or 3 of Schedule 14; 25
 - (b) “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

47 Exception to section 46: protected deer

- (1) It is not an offence under section 46 for a person to use a motor vehicle in the course of hunting protected deer if – 30
- (a) the land on which the vehicle is used is enclosed land on which deer are usually kept, and
 - (b) the person –
 - (i) is the occupier of the land, or
 - (ii) has been authorised by the occupier to use a motor vehicle on the land in the course of hunting deer. 35
- (2) In proceedings for an offence under section 46 it is for the defendant to show that the offence was not committed by reason of this section.

Damage to protected shelters etc. and causing disturbance to wild animals

48 Damaging etc. protected breeding sites and resting places

- (1) In this section, “protected breeding site or resting place” means a breeding site or resting place of a wild animal of a species listed in Part 1 of Schedule 12.
- (2) Subject to sections 67 and 69, it is an offence to— 5
 - (a) damage, destroy or cause the deterioration of a protected breeding site or resting place;
 - (b) obstruct access to a protected breeding site or resting place.

49 Deliberately damaging etc. protected shelters

- (1) In this section “protected shelter” means a structure or place that is used for shelter or protection by a wild animal of a species listed in Part 1 or 2 of Schedule 13. 10
- (2) Subject to sections 50, 67 and 69, a person (P) commits an offence if—
 - (a) P—
 - (i) damages, destroys or causes the deterioration of, a protected shelter; or 15
 - (ii) obstructs access to a protected shelter; and
 - (b) one of the conditions in subsection (3) is satisfied.
- (3) The conditions are that—
 - (a) P intended to damage, destroy, cause the deterioration of or obstruct access to, the protected shelter in question; 20
 - (b) P’s actions presented a serious risk to protected shelters used by wild animals of the relevant species unless reasonable precautions were taken and P—
 - (i) was aware that that was the case; but 25
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to protected shelters used by wild animals of the relevant species whether or not reasonable precautions were taken, and P was aware that that was the case.
- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to protected shelters used by wild animals of the relevant species by reference to—
 - (a) the probability of P’s actions resulting in damage to, the destruction of, the deterioration of or obstruction of access to, one or more protected shelters used by wild animals of the relevant species; 35
 - (b) the potential effect of P’s actions (by virtue of resulting in damage to, the destruction of, the deterioration of or obstruction of access to, one or more protected shelters) on the distribution or abundance of any local population of the relevant species; or
 - (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 40
- (5) In subsection (3)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in damage to or the destruction of, the deterioration

of or obstruction of access to protected shelters used by wild animals of the relevant species.

- (6) The reference in subsection (1) to a “structure or place” does not include a reference to a structure or place within a dwelling-house.
- (7) In this section “wild animals of the relevant species” means wild animals of a species listed in Part 1 or 2 of Schedule 13 that uses the protected shelter referred to in subsection (2)(a). 5

50 Section 49: defences

- (1) In proceedings for an offence under section 49 (other than an offence of causing the destruction of a structure or place used for shelter or protection by an animal of a species listed in Part 2 of Schedule 13) it is a defence to show that the damage, destruction, deterioration or obstruction concerned was the incidental result of a lawful operation and could not reasonably have been avoided. 10
- (2) In proceedings for an offence under section 49 which is alleged to have been committed in respect of a structure or place that was used for shelter or protection by an animal of a species listed in Part 2 of Schedule 13, it is a defence to show that the defendant’s action was urgently necessary for the purpose of preventing serious damage to crops, livestock, forests, fisheries, water or other types of property. 15
- (3) But the defence provided by subsection (2) may not be relied upon if the prosecution proves that it had become apparent, before the time the defendant’s action was taken, that the action would prove necessary for a purpose mentioned in that subsection and either – 20
- (a) the defendant failed to apply for a licence under section 67 authorising that action as soon as reasonably practicable after that fact had become apparent, or 25
- (b) an application by the defendant for such a licence had been determined.

51 Deliberately disturbing local populations of wild animals of certain species

- (1) Subject to sections 67 and 69, a person (P) commits an offence if – 30
- (a) P causes disturbance to a local population of wild animals of a species listed in Part 1 of Schedule 12, and
- (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that –
- (a) P intended to cause disturbance to the local population of wild animals in question; 35
- (b) P’s actions created a serious risk of causing disturbance to that local population of wild animals unless reasonable precautions were taken, and P –
- (i) was aware that that was the case; but 40
- (ii) failed to take reasonable precautions;
- (c) P’s actions created a serious risk of causing disturbance to that local population of wild animals whether or not reasonable precautions were taken, and P was aware that that was the case.

- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to the local population of wild animals in question by reference to –
- (a) the probability of that local population of wild animals being disturbed as a result of P’s actions; 5
 - (b) the potential effect of P’s actions (by virtue of causing disturbance to that local population of wild animals) on the distribution or abundance of wild animals of the relevant species within that local population; or
 - (c) a combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 10
- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in disturbance to the local population of wild animals in question.
- (5) For the purposes of this section, a reference to causing disturbance to a local population of wild animals of any species includes, in particular, a reference to – 15
- (a) any actions that are likely to impair the ability of wild animals of that species within that population –
 - (i) to survive, 20
 - (ii) to breed or to rear their young,
 - (iii) in the case of a migratory species, to migrate, or
 - (iv) in the case of a hibernating species, to hibernate; and
 - (b) any actions that are likely to have a significant effect on the distribution or abundance of wild animals of that species within that population. 25

52 Deliberately disturbing a wild animal of a species listed in Schedule 13 or 22

- (1) Subject to sections 53, 67 and 69, a person (P) commits an offence if –
- (a) P disturbs –
 - (i) a wild animal of a species listed in Part 1 or 2 of Schedule 13 while the animal is occupying a structure or place that it uses for shelter or protection, or 30
 - (ii) a wild animal of a species listed in Schedule 22; and
 - (b) one of the conditions in subsection (3) is satisfied.
- (2) The reference in subsection (1)(a)(i) to a “structure or place” does not include a reference to a structure or place within a dwelling-house. 35
- (3) The conditions are that –
- (a) P intended to disturb the wild animal;
 - (b) P’s actions presented a serious risk to wild animals of the relevant species unless reasonable precautions were taken and P –
 - (i) was aware that that was the case, but 40
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to wild animals of the relevant species whether or not reasonable precautions were taken, and P was aware that that was the case.
- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to wild animals of the relevant species by reference to – 45

- (a) the probability of one or more wild animals of that species being disturbed as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the disturbance of one or more wild animals of that species) on the distribution or abundance of any local population of birds of that species, or 5
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b).
- (5) In subsection (3)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the disturbance of wild animals of the relevant species. 10
- (6) In this section “wild animals of the relevant species” means wild animals of the same species as the animal disturbed by P.

53 Section 52: defences

- (1) In proceedings for an offence under section 52 which is alleged to have been committed in respect of an animal of a species listed in Part 1 or 2 of Schedule 13 it is a defence to show that the disturbance concerned was the incidental result of a lawful operation and could not reasonably have been avoided. 15
- (2) In proceedings for an offence under section 52 which is alleged to have been committed in respect of an animal of a species listed in Part 2 of Schedule 13 it is a defence to show that the defendant’s action was urgently necessary for the purpose of preventing serious damage to crops, livestock, forests, fisheries, water or other types of property. 20
- (3) Subsection (3) of section 50 applies to the defence provided by subsection (2) of this section as it applies to the defence provided by subsection (2) of that section. 25

Possession, sale etc. of wild animals

54 Possessing and selling wild animals: European protected species

- (1) Subject to sections 55, 67, 69 and 142(3), it is an offence to –
- (a) be in possession of, 30
 - (b) be in control of,
 - (c) transport,
 - (d) sell,
 - (e) offer for sale, or
 - (f) expose for sale, 35
- anything to which this section applies.
- (2) This section applies to –
- (a) any live or dead wild animal of a species listed in Annex 4(a) to the Habitats Directive;
 - (b) any part of such an animal; 40
 - (c) anything derived from such an animal or from part of such an animal;
 - (d) an egg, or any part of an egg, of such an animal.

55 Section 54: defences

- (1) In proceedings for an offence under section 54 it is a defence to show that—
- (a) the animal in question,
 - (b) the animal part in question,
 - (c) the animal, or animal part, from which the thing in question was derived, or (as the case may be)
 - (d) the egg, or the part of an egg, in question,
- had been lawfully taken from the wild in the European territory of a member State before the implementation date. 5
- (2) In proceedings for an offence under section 54 it is a defence to show that— 10
- (a) the animal in question,
 - (b) the animal part in question,
 - (c) the animal, or animal part, from which the thing in question was derived, or (as the case may be)
 - (d) the egg, or the part of an egg, in question,
- had been taken from the wild otherwise than within the European territory of a member State. 15
- (3) In proceedings for an offence under section 54 it is a defence to show that—
- (a) the animal in question,
 - (b) the animal from which the part in question came,
 - (c) the animal from which, or from part of which, the thing in question is derived, or (as the case may be)
 - (d) the animal which laid the egg in question,
- is an animal within subsection (4). 20
- (4) An animal is within this subsection if— 25
- (a) it is of a species listed in the second column of Schedule 23, and
 - (b) it meets the condition specified in respect of that species in the third column of that Schedule.
- (5) In proceedings for an offence under paragraph (a), (b) or (c) of section 54(1) which is alleged to have been committed in respect of an animal it is a defence to show that— 30
- (a) the animal had been captured in England or Wales in a manner which was lawful by reason of section 31(1) (disabled animals), and
 - (b) the defendant was in possession of the animal, was in control of the animal or (as the case may be) transported the animal solely for the purpose of— 35
 - (i) tending it and releasing it when no longer disabled,
 - (ii) releasing it after it had been tended, or
 - (iii) disposing of it after its death.
- (6) In proceedings for an offence under paragraph (a), (b) or (c) of section 54(1) which is alleged to have been committed in respect of an animal it is a defence to show that— 40
- (a) the animal had been captured in England or Wales in a manner which was lawful by reason of section 31(2) (seriously disabled animals), and
 - (b) the defendant was in possession of the animal, was in control of the animal or (as the case may be) transported the animal solely for the purpose of killing it. 45

- (7) In proceedings for an offence under paragraphs (a), (b) or (c) of section 54(1) which is alleged to have been committed in respect of an animal it is a defence to show that—
- (a) the animal had been killed in England or Wales in a manner which was lawful by reason of section 31(2) (seriously disabled animals), and 5
 - (b) the defendant was in possession of the animal, was in control of the animal or (as the case may be) transported the animal solely for the purpose of disposing of the animal after its death.
- (8) In proceedings for an offence under section 54 which is alleged to have been committed in respect of an egg or part of an egg it is a defence to show that the egg or part had not been taken from the wild. 10
- (9) In this section—
- “implementation date” means—
- (a) in a case where the member State concerned became a member State on or before 10 June 1994, that date; 15
 - (b) in a case where the member State concerned became a member State after that date, the date on which it became a member State;
- “lawfully” means without any contravention of the law of the member State concerned. 20
- 56 Advertising the sale of wild animals: European protected species**
- Subject to section 67, it is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells or intends to buy or sell things the sale of which would, taking account of the defences in section 55, constitute an offence under section 54(1)(d). 25
- 57 Possessing wild animals: species protected in England and Wales**
- (1) Subject to sections 58, 67, 69 and 142(3), it is an offence to—
- (a) be in possession of,
 - (b) be in control of, or
 - (c) transport, 30
- anything to which this section applies.
- (2) This section applies to—
- (a) any live or dead wild animal of a species listed in Part 1 or Part 2 of Schedule 13;
 - (b) any part of such an animal; 35
 - (c) anything derived from such an animal or from part of such an animal;
 - (d) an egg, or any part of an egg, of such an animal.
- 58 Section 57: defences**
- (1) In proceedings for an offence under section 57 which is alleged to have been committed in respect of an animal, part of an animal or anything derived from an animal or from part of an animal it is a defence to show that—
- (a) the animal had not been killed or captured;
 - (b) the animal had been lawfully killed or captured; 40

- (c) the animal, part or thing had at any time been lawfully sold (whether to the defendant or to any other person).
- (2) But in proceedings for an offence under section 57 which is alleged to have been committed in respect of a live animal it is not a defence under subsection (1)(b) to show that the animal had been captured in a manner which was lawful by reason of section 31(1) (disabled animals) unless it is also shown that the defendant was in possession of the animal, was in control of the animal or (as the case may be) transported the animal solely for the purpose of –
 - (a) tending it and releasing it when no longer disabled, or
 - (b) releasing it after it had been tended.
- (3) In proceedings for an offence under section 57 which is alleged to have been committed in respect of a dead animal of a species listed in Part 2 of Schedule 13, part of a dead animal of such a species or anything derived from a dead animal of such a species or from part of a dead animal of such a species –
 - (a) it is a defence to show that the animal, part or thing had been sold (whether to the defendant or to any other person) and, at the time of the sale, the purchaser had no reason to believe that the animal had been unlawfully killed;
 - (b) paragraph (c) of subsection (1) is to be ignored.
- (4) In proceedings for an offence under section 57 which is alleged to have been committed in respect of an egg or part of an egg, it is a defence to show that the egg or part –
 - (a) had not been taken from the wild,
 - (b) had been lawfully taken from the wild,
 - (c) had at any time been lawfully sold (whether to the defendant or to any other person).
- (5) In this section “lawfully” means without contravention of –
 - (a) this Part;
 - (b) Part 1 of the Wildlife and Countryside Act 1981; or
 - (c) the Protection of Badgers Act 1992;and “unlawfully” is to be construed accordingly.

59 Selling wild animals: species protected in England and Wales

- (1) Subject to sections 67 and 69, it is an offence to –
 - (a) sell,
 - (b) offer for sale,
 - (c) expose for sale,
 - (d) be in possession of for the purpose of sale, or
 - (e) transport for the purpose of sale,anything to which this section applies.
- (2) Subject to sections 67 and 69, it is an offence for a person to publish or cause to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, things to which this section applies.
- (3) This section applies to –
 - (a) any live or dead wild animal of a species listed in Part 1 of Schedule 13;
 - (b) any part of such an animal;

- (c) anything derived from such an animal or from part of such an animal;
 - (d) an egg, or any part of an egg, of such an animal.
- (4) This section also applies to any live wild animal of a species listed in Part 2 of Schedule 13.

Protection of certain species

5

60 Close seasons and areas of special protection etc.

- (1) Subject to sections 61, 67 and 69, a person (P) commits an offence if –
- (a) P kills, injures or captures an animal of a kind listed in Part 1 of Schedule 24 –
 - (i) during the close season or prohibited period for that animal, or 10
 - (ii) in an area of special protection for that animal; and
 - (b) P intended to kill, injure or capture the animal in question.
- (2) Subject to sections 61, 67 and 69, a person (P) commits an offence if –
- (a) P kills, injures or captures an animal of a kind listed in Part 2 of Schedule 24 – 15
 - (i) during the close season or prohibited period for that animal, or
 - (ii) in an area of special protection for that animal; and
 - (b) one of the conditions in subsection (3) is satisfied.
- (3) The conditions are that –
- (a) P intended to kill, injure or capture the animal in question; 20
 - (b) P’s actions presented a risk to wild animals of the relevant kind unless reasonable precautions were taken and P –
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a risk to wild animals of the relevant kind 25
 - whether or not reasonable precautions were taken, and P was aware that that was the case.
- (4) For the purposes of subsection (3)(b) or (c), P’s actions may only be regarded as presenting a serious risk to wild animals of the relevant kind by reference to – 30
- (a) the probability of one or more wild animals of that kind being killed, injured or captured during the close season or prohibited period for that kind of animal or, as the case may be, in an area of special protection for that kind of animal, as a result of P’s actions;
 - (b) the potential effect of P’s actions (by virtue of causing the death, injury or capture of one or more wild animals of that kind during the close season or prohibited period or, as the case may be, in the area of special protection) on the distribution or abundance of any local population of wild animals of that kind, or 35
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 40
- (5) In subsection (3)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the death, injury or capture of wild animals of

- the relevant kind during the close season or prohibited period or, as the case may be, in the area of special protection.
- (6) In this section –
“kind” means a species or other classification of animals;
“wild animals of the relevant kind” means wild animals of the same kind as the animal killed, injured or captured by P. 5
- (7) In this Act –
(a) “close season” means, in relation to an animal, the period specified in Part 1 of Schedule 25 in respect of an animal of that kind and (where the relevant entry distinguishes between animals of different sexes), of the same sex; 10
(b) “prohibited period” means –
(i) in relation to an animal of a kind mentioned in subsection (1), the period specified in Part 2 of Schedule 25 in respect of an animal of that species and sex; and 15
(ii) in relation to an animal of a kind mentioned in subsection (2), where an entry in respect of such an animal has been added to Part 2 of Schedule 25 by regulations under section 160(1)(a), the period specified in Part 2 of Schedule 25 in respect of an animal of that kind. 20
(c) “area of special protection” means, in relation to an animal, an area specified in regulations in respect of an animal of that kind.
- (8) If regulations under section 160(1)(b) add a relevant bird (within the meaning of that section) to the list in Part 1 or 2 of Schedule 24, references to an animal in the following provisions are to be read as including references to a bird – 25
(a) in the case of an addition to Part 1, references in subsections (1) and (7) of this section and subsections (1) to (3) of section 61;
(b) in the case of an addition to Part 2, references in subsections (2) to (7) of this section and subsections (1) to (3) section 61.
- 61 Exceptions to section 60** 30
- (1) A person (P) does not commit an offence under section 60(1) or (2) by reason of capturing an animal (or killing or injuring an animal when attempting to capture it) if –
(a) it has been disabled (otherwise than by P’s unlawful act) or is diseased, and 35
(b) P captures it (or attempts to capture it) solely for the purpose of tending it and releasing it when no longer disabled or diseased.
- (2) A person (P) does not commit an offence under section 60(1) or (2) by reason of killing an animal or capturing an animal for the purpose of killing it (or injuring an animal when attempting to do either of those things) if – 40
(a) it has been disabled (otherwise than by P’s unlawful act) or is diseased, and
(b) it has no reasonable chance of recovering.
- (3) A person (P) does not commit an offence under section 60(1) or (2) by reason of killing or injuring an animal if doing so was the incidental result of a lawful operation and could not reasonably have been avoided. 45

- (4) A person (P) does not commit an offence under section 60(1) by reason of killing or capturing a protected deer (or injuring a protected deer when attempting to kill or capture it) if P reasonably believes that –
- (a) it has been deprived (other than by an unlawful killing or capture by P) of a female deer on which it was dependant, or 5
 - (b) it is about to be deprived, by death from disease or a lawful killing or capture, of a female deer on which it is dependant.
- (5) A person (P) does not commit an offence under section 60(1) by reason of killing a protected deer during the close season, or injuring a protected deer during the close season when attempting to kill it, if the conditions in subsection (6) are satisfied. 10
- (6) The conditions are that –
- (a) P kills or injures the deer by shooting it,
 - (b) P kills or injures the deer on land which is cultivated land, pasture or enclosed woodland, 15
 - (c) P has reasonable grounds for believing that –
 - (i) deer of the species concerned are causing or have caused damage on the land to crops, vegetables, fruit, growing timber or any other form of property,
 - (ii) further damage will be so caused and will be serious, and 20
 - (iii) it is necessary to kill the deer for the purpose of preventing that damage, and
 - (d) P is one of the following –
 - (i) the occupier of the land on which the deer is killed or injured;
 - (ii) a member of the occupier’s household normally resident on the land, acting with the authority of the occupier; 25
 - (iii) a person in the ordinary service of the occupier on the land, acting with the authority of the occupier;
 - (iv) a person having the right to kill or take deer on the land;
 - (v) a person acting with the authority of a person having the right mentioned in paragraph (iv). 30
- (7) A person (P) does not commit an offence under section 60(2) by reason of killing a common seal (*Phoca vitulina*) or a grey seal (*Halichoerus grypus*) (or injuring such a seal when attempting to kill it) if –
- (a) at the time P kills (or attempts to kill) the seal it is in the vicinity of a fishing net or fishing tackle, 35
 - (b) at that time the net or tackle is in P’s possession or in the possession of a person at whose request P kills (or attempts to kill) the seal, and
 - (c) P kills (or attempts to kill) the seal to prevent it causing damage to the net (or a fish in the net) or tackle. 40
- (8) In proceedings for an offence under section 60(1) or (2) it is for the defendant to show that the offence was not committed by reason of this section.
- (9) Regulations may, either generally or in relation to any area or any species and description of protected deer specified in the regulations, amend subsection (6) by – 45
- (a) adding further conditions;
 - (b) varying or removing any conditions added.

62 Badgers

- (1) It is an offence to cruelly ill-treat a badger.
- (2) Subject to sections 67 and 69, it is an offence to dig for a badger.
- (3) If, in proceedings against a person for an offence under subsection (2), there is evidence from which it could reasonably be concluded that at the material time the person was digging for a badger, the person is to be presumed to have been digging for a badger unless the contrary is shown. 5
- (4) Subject to sections 67 and 69, it is an offence to attempt to kill, injure or capture a badger.
- (5) If, in proceedings against a person for an offence under subsection (4), there is evidence from which it could reasonably be concluded that at the material time the person was attempting to kill, injure or capture a badger, the person is to be presumed to have been attempting to kill, injure or capture a badger unless the contrary is shown. 10
- (6) Subject to sections 67 and 69, it is an offence for a person to – 15
 - (a) mark, or
 - (b) attach a ring, tag or other marking device to, a live badger.
- (7) Subject to sections 67 and 69, a person (P) commits an offence if – 20
 - (a) P causes a dog to enter a badger sett at which there are signs of current use by a badger, and
 - (b) one of the conditions in subsection (8) is satisfied.
- (8) The conditions are that –
 - (a) P intended to cause the dog to enter the badger sett;
 - (b) P’s actions created a serious risk that, unless reasonable precautions were taken, the dog would enter the badger sett, and P – 25
 - (i) was aware that that was the case; but,
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions created a serious risk that, whether or not reasonable precautions were taken, the dog would enter the badger sett, and P was aware that that was the case. 30
- (9) In subsection (8)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the dog entering the badger sett.
- (10) In this section references to “a badger” are references to a wild animal of the species *Meles meles*. 35
- (11) This section is subject to section 63.

63 Section 62: defences

- (1) A person does not commit an offence under section 62(1) by reason of doing anything which is authorised under the Animals (Scientific Procedures) Act 1986. 40
- (2) In proceedings for an offence under section 62(7) it is a defence to show that the defendant’s action was urgently necessary for the purpose of preventing

serious damage to crops, livestock, forests, fisheries, water or other types of property.

- (3) Subsection (3) of section 50 applies to the defence provided by subsection (2) of this section as it applies to the defence provided by subsection (2) of that section. 5

64 Offences relating to badgers: powers of court where dog used or present at commission of offence

- (1) Subsection (2) applies where –
- (a) a person is convicted of a relevant offence relating to a badger, and
 - (b) a dog was used in or present at the commission of the offence. 10
- (2) The court by which the person is convicted of the offence may, in addition to or in substitution for any other punishment, make either or both of the following orders –
- (a) an order for the destruction or other disposal of the dog;
 - (b) an order disqualifying the offender, for such period as it thinks fit, for having custody of a dog. 15
- (3) For the purposes of this section, “a relevant offence relating to a badger” means –
- (a) an offence under section 29(1), 43(1) or 52(1) in relation to a badger,
 - (b) an offence under section 49(2) in relation to a protected shelter used by a badger, or
 - (c) an offence under section 62(1), (2), (4) or (6). 20
- (4) Where the court makes an order under subsection (2), it may –
- (a) appoint a person to undertake the destruction or other disposal of the dog and require any person having custody of the dog to deliver it up for that purpose, and
 - (b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying or otherwise disposing of the dog and of keeping it pending its destruction or disposal. 25
- (5) It is an offence for a person to contravene –
- (a) an order under subsection (2)(b), or
 - (b) a requirement imposed under subsection (4)(a). 30
- (6) A sum ordered to be paid by an order under subsection (4)(b) is recoverable summarily as a civil debt.
- (7) In this section and in section 65, references to “a badger” are references to a wild animal of the species *Meles meles*. 35

65 Orders under section 64: appeals etc.

- (1) Where an order under section 64(2) is made in relation to a dog owned by a person other than the offender, the owner of the dog may appeal to the Crown Court against the order. 40
- (2) A dog may not be destroyed pursuant to an order under section 64(2) –
- (a) until the end of the period within which notice of appeal to the Crown Court against the order can be given, and

- (b) if notice of appeal is given in that period, until the appeal is determined or withdrawn,
unless the owner of the dog gives notice to the court which made the order that the owner does not intend to appeal against it.
- (3) A person who is disqualified for having custody of a dog by virtue of an order made under section 64(2) may, at any time after the end of the period of one year beginning with the date of the order, apply to the court that made it for a direction terminating the disqualification. 5
- (4) On an application under subsection (3) the court may – 10
- (a) having regard to the applicant’s character, the applicant’s conduct since the disqualification was imposed and any other circumstances of the case, grant or refuse the application, and
- (b) order the applicant to pay all or any part of the costs of the application.
- (5) Where an application under subsection (3) in respect of an order is refused, no further application in respect of that order may be made before the end of the period of one year beginning with the date of the refusal. 15

66 Selling and buying venison

- (1) It is an offence for a person (“P”) to – 20
- (a) sell,
- (b) offer for sale,
- (c) expose for sale,
- (d) be in possession of for the purpose of sale,
- (e) transport for the purpose of sale,
- (f) buy or receive, or
- (g) offer to buy, 25
- venison which comes from a deer to which this subsection applies.
- (2) Subsection (1) applies to a deer if – 30
- (a) it has been killed or captured in circumstances which constitute an offence under –
- (i) sections 40, 43 or 46,
- (ii) section 60, or
- (iii) section 2, 3 or 4 of the Deer Act 1991, and
- (b) P knows or has reason to believe that it has been killed or captured in such circumstances.
- (3) It is an offence for a person to publish or cause to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, venison which comes from deer which have been killed or captured in circumstances mentioned in subsection (2)(a). 35
- (4) In this section “venison” means – 40
- (a) any carcase of a deer, or
- (b) any edible part of the carcase of a deer.

*Licensing and exemptions***67 Licences**

- (1) Sections 29, 30, 34 to 41, 43(2), 46, 49, 48, 52, 51, 54, 56, 57, 59, 60 and 62(2), (4), (6) and (7) do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under this section. 5
- (2) A licence under this section may be granted only for the following purposes –
- (a) protecting wild fauna or flora,
 - (b) conserving natural habitats,
 - (c) preventing serious damage to crops, livestock, forests, fisheries, water or other types of property, 10
 - (d) preserving public health or public safety or for other imperative purposes of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,
 - (e) research or educational purposes, 15
 - (f) enabling the re-population of an area with animals or the re-introduction into an area of animals,
 - (g) enabling the breeding operations necessary for the purposes in paragraphs (e) or (f).
- (3) But a licence under this section may be granted for any other purpose if – 20
- (a) the effect of the licence is to authorise –
 - (i) the capture or possession of animals of a species not listed in Annex 5(a) to the Habitats Directive, or
 - (ii) the other judicious exploitation of animals of a species not listed in Annex 4(a) or 5(a) to the Habitats Directive, and 25
 - (b) the appropriate authority is satisfied –
 - (i) that the capture, possession or other exploitation of animals under the licence will be done under strictly supervised conditions, on a selective basis and to a limited extent, and
 - (ii) that granting the licence is consistent with the principle in subsection (4). 30
- (4) The principle is that no more than a small number of animals from any given population should be captured, possessed or exploited under licences granted by reason of subsection (3).
- (5) A licence under this section may not be granted unless the appropriate authority is satisfied that – 35
- (a) there is no other satisfactory way of achieving the purpose for which the licence is to be granted,
 - (b) granting the licence will not be detrimental to the maintenance of the population of any species of animal at a favourable conservation status in its natural range, and 40
 - (c) granting the licence is not contrary to the United Kingdom’s obligation to comply with –
 - (i) the Convention on the Conservation of Migratory Species of Wild Animals; 45

- (ii) the Agreement on International Humane Trapping Standards between the European Community, Canada and the Russian Federation.
- (6) A licence under this section which authorises anything to be done in respect of animals must specify – 5
 - (a) the species of animals in respect of which it may be done,
 - (b) the means, arrangements or methods which may or must be used in doing it,
 - (c) the times at which or the periods during which it may be done, and
 - (d) the places at which it may be done. 10
- (7) A licence under this section which is granted in reliance on subsection (3) must also –
 - (a) specify the maximum number of animals which may be captured, possessed or otherwise exploited under the licence;
 - (b) include such conditions as the appropriate authority thinks fit for – 15
 - (i) requiring reports to be made to the appropriate authority about the things done under the licence, and
 - (ii) otherwise enabling the appropriate authority to monitor the things done under the licence.
- (8) Subsections (2) to (7) do not apply to a licence under this section if its effect is limited to either or both of the following – 20
 - (a) authorising the use of a spring trap for or in connection with the purpose of killing, injuring or capturing a relevant wild animal (within the meaning of section 37), or
 - (b) authorising the sale of poisoned grain. 25
- (9) Subsections (5) and (6) do not apply to a licence under this section if its effect is limited to authorising –
 - (a) the use of any other device listed in Part 1 of Schedule 16,
 - (b) the use of any substance listed in that Part of that Schedule, or
 - (c) the carrying out of any activity listed in that Part of that Schedule; 30for or in connection with the purpose of killing, injuring or capturing a relevant wild animal (within the meaning of section 37).
- (10) Subsections (2), (3) and (5)(a) and (b) do not apply to a licence under this section if its effect is limited to authorising – 35
 - (a) the use of a trap, or
 - (b) the use of a snare, other than a regulated snare (within the meaning of Part 2 of Schedule 16);for or in connection with the purpose of killing, injuring or capturing a stoat (within the meaning of section 38).
- (11) In this section – 40
 - “the appropriate authority” means –
 - (a) in the case of a licence authorising anything to be done in England, the Secretary of State;
 - (b) in the case of a licence authorising anything to be done in Wales, the Welsh Ministers; 45
 - “livestock” includes any animal which is kept –
 - (a) for the purpose of food, wool, skins or fur;

- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing.

68 Licences: supplementary provisions

- (1) A licence under section 67 – 5
 - (a) may be, to any degree, general or specific,
 - (b) may be granted to a particular person, to a class of persons or to persons generally,
 - (c) may be subject to compliance with any conditions specified in the licence, 10
 - (d) may be modified or revoked at any time by the appropriate authority, and
 - (e) subject to paragraph (d), is valid for the period specified in the licence.
- (2) For the purposes of subsection (1)(b), the definition of a class of persons may be framed by reference to any circumstances including, in particular, their being authorised by any other person. 15
- (3) The appropriate authority may charge such reasonable sum (if any) as it may determine for the grant of a licence under section 67.
- (4) In this section “the appropriate authority” has the same meaning as in section 67. 20
- (5) For further provision as to the exercise of functions under section 67 and this section, see section 117 (duty to consult and give reasons etc.).

69 Exemptions when acting in pursuance of certain orders etc.

- Sections 29, 30, 34 to 41, 43(2), 46, 49, 48, 52, 51, 54, 57, 59, 60, 62(2), (4), (6) or (7) do not apply to anything done – 25
- (a) in pursuance of an order under section 83 (pest control orders);
 - (b) under, or in pursuance of an order under, any provision of the Animal Health Act 1981.

Penalties

70 Penalty for offences under Part 2

- (1) A person who commits an offence under any provision of this Part is liable – 30
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 35
- (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 12 months is to be read as a reference to 6 months.

PART 3

PROTECTION OF WILD PLANTS ETC.

Interpretation of Part 3

71 “Wild plant” etc.

- (1) This section applies for the purposes of this Part. 5
- (2) “Wild plant” means a plant that is growing wild or has, at any time, grown wild.
- (3) A reference to a “plant” includes a reference to—
 - (a) fungi and algae;
 - (b) a plant at any stage of its biological cycle (including a bulb, corm, rhizome, spore or seed). 10
- (4) “Uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing.
- (5) In proceedings for an offence under this Part relating to a wild plant, the plant in question is presumed to be a wild plant unless the contrary is shown. 15

Picking etc. wild plants

72 Deliberately picking etc. wild plants: European protected species etc.

- (1) Subject to sections 80 and 142(2), a person (P) commits an offence if—
 - (a) P picks, collects, cuts, uproots or destroys a wild plant of a species listed in Schedule 26, and 20
 - (b) one of the conditions in subsection (2) is satisfied.
- (2) The conditions are that—
 - (a) P intended to pick, collect, cut, uproot or destroy the wild plant in question;
 - (b) P’s actions presented a serious risk to plants of the relevant species unless reasonable precautions were taken and P— 25
 - (i) was aware that that was the case; but
 - (ii) failed to take reasonable precautions;
 - (c) P’s actions presented a serious risk to plants of the relevant species whether or not reasonable precautions were taken and P was aware that that was the case. 30
- (3) For the purposes of subsection (2)(b) or (c), P’s actions may only be regarded as presenting a serious risk to plants of the relevant species by reference to—
 - (a) the probability of one or more plants of that species being picked, collected, cut, uprooted or destroyed as a result of P’s actions; 35
 - (b) the potential effect of P’s actions (by virtue of causing one or more plants of the relevant species to be picked, collected, cut, uprooted or destroyed) on the distribution or abundance of any local population of plants of that species, or
 - (c) the combination of the probability mentioned in paragraph (a) and the potential effect mentioned in paragraph (b). 40

- (4) In subsection (2)(b) and (c) “reasonable precautions” means steps that were reasonable in the circumstances known to P for P to take in order to reduce the risk of P’s actions resulting in the picking, collection, cutting, uprooting or destruction of plants of the relevant species.
- (5) In this section “plants of the relevant species” means wild plants of the same species as the plant picked, collected, cut, uprooted or destroyed by P. 5
- 73 Intentionally picking etc. wild plants: species protected in England and Wales**
- Subject to sections 75, 80 and 142(2), a person (P) commits an offence if –
- (a) P picks, collects, cuts, uproots or destroys a wild plant of a species listed in Schedule 28, and 10
- (b) P intended to pick, collect, cut, uproot or destroy that plant.
- 74 Intentionally uprooting certain wild plants etc.**
- (1) Subject to section 75, a person (P) commits an offence if –
- (a) P uproots a plant to which subsection (2) applies, and
- (b) P intended to uproot that plant. 15
- (2) This subsection applies to a wild plant that is of a species, other than a species listed in Schedule 26 or 28, that is established in Great Britain in the wild.
- (3) In this section “unauthorised person” means any person other than –
- (a) the owner or occupier of the land on which the plant is growing;
- (b) a person who is authorised to uproot the plant under subsection (4). 20
- (4) A person may be authorised to uproot a plant to which subsection (2) applies by –
- (a) the owner or occupier of the land on which the plant is growing;
- (b) the local authority for the relevant area;
- (c) the water undertaker for the relevant area; 25
- (d) the sewerage undertaker for the relevant area;
- (e) where the relevant area is in England –
- (i) the Secretary of State,
- (ii) the Environment Agency,
- (iii) Natural England, or 30
- (iv) the Forestry Commissioners;
- (f) where the relevant area is in Wales –
- (i) the Welsh Ministers, or
- (ii) the Natural Resources Body for Wales.
- (5) In subsection (4) references to “the relevant area” are references to the area in which the plant in question is growing. 35
- 75 Sections 73 and 74: defence**
- In proceedings for an offence under sections 73 or 74 it is a defence to show that the act alleged to constitute the offence was the incidental result of a lawful operation and could not reasonably have been avoided. 40

Possession, sale etc. of wild plants

76 Possessing and selling wild plants etc: European protected species

- (1) Subject to section 77, 80 and 142(3), it is an offence to –
- (a) be in possession of,
 - (b) be in control of, 5
 - (c) transport,
 - (d) sell,
 - (e) offer for sale, or
 - (f) expose for sale,
- anything to which this section applies. 10
- (2) This section applies to –
- (a) any live or dead wild plant which is of a species listed in –
 - (i) Annex 2(b) to the Habitats Directive (other than any bryophyte), or
 - (ii) Annex 4(b) to that Directive; 15
 - (b) any part of such a plant;
 - (c) anything derived from such a plant or from part of such a plant.

77 Section 76: defences

- (1) In proceedings for an offence under section 76 it is a defence to show that –
- (a) the plant in question, 20
 - (b) the plant part in question, or (as the case may be)
 - (c) the plant, or plant part, from which the thing in question is derived, had been lawfully taken from the wild in the European territory of a member State before the implementation date.
- (2) In proceedings for an offence under section 76 it is a defence to show that – 25
- (a) the plant in question,
 - (b) the plant part in question, or (as the case may be)
 - (c) the plant, or plant part, from which the thing in question is derived, had been taken from the wild otherwise than within the European territory of a member State. 30
- (3) In subsection (1) –
- “implementation date” means –
- (a) in a case where the member State concerned became a member State on or before 10 June 1994, that date;
 - (b) in a case where the member State concerned became a member State after that date, the date on which it became a member State; 35
- “lawfully” means without contravention of the law of the member State concerned.

78 Advertising the sale of wild plants etc: European protected species

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Subject to section 80, it is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells or intends to

buy or sell things the sale of which would, taking account of the defences in section 77, constitute an offence under section 76(1)(d).

79 Selling wild plants etc: species protected in England and Wales

- (1) Subject to section 80, it is an offence to –
- (a) sell, 5
 - (b) offer for sale,
 - (c) expose for sale,
 - (d) be in possession of for the purpose of sale,
 - (e) transport for the purpose of sale,
- anything to which this section applies. 10
- (2) Subject to section 80, it is an offence for a person to publish or cause to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, things to which this section applies.
- (3) This section applies to – 15
- (a) any live or dead wild plant of a species listed in Schedule 28 or 27;
 - (b) any part of such a plant;
 - (c) anything derived from such a plant or from part of such a plant.

Licensing

- ## 80 Licences 20
- (1) Sections 72, 73, 76, 78 and 79 do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under this section.
- (2) A licence under this section may be granted only for the following purposes –
- (a) protecting wild fauna and flora, 25
 - (b) conserving natural habitats,
 - (c) preventing serious damage to crops, livestock, forests, fisheries, water or other types of property,
 - (d) preserving public health or public safety or for other imperative purposes of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment, 30
 - (e) research or educational purposes,
 - (f) enabling the re-population of an area with plants or the re-introduction into an area of plants, 35
 - (g) enabling the artificial propagation of plants necessary for the purposes in paragraphs (e) or (f).
- (3) But a licence under this section may be granted for any other purpose if –
- (a) the effect of the licence is to authorise – 40
 - (i) the picking, collecting, cutting, uprooting or possession of plants, or
 - (ii) the other judicious exploitation of plants of a species not listed in Annex 4(b) to the Habitats Directive, and

- (b) the appropriate authority is satisfied –
 - (i) that the things done under the licence will be done under strictly supervised conditions, on a selective basis and to a limited extent, and
 - (ii) that granting the licence is consistent with the principle in subsection (4). 5
- (4) The principle is that no more than a small number of plants from any given population should be picked, collected, cut, uprooted, possessed or otherwise exploited under licences granted by reason of subsection (3).
- (5) A licence under this section may not be granted unless the appropriate authority is satisfied that – 10
 - (a) there is no other satisfactory way of achieving the purpose for which the licence is to be granted, and
 - (b) granting the licence will not be detrimental to the maintenance of the population of any species of plant at a favourable conservation status in its natural range. 15
- (6) A licence under this section which authorises anything to be done in respect of plants must specify –
 - (a) the species of plant in respect of which it may be done,
 - (b) the means, arrangements or methods which may or must be used in doing it, 20
 - (c) the times at which or the periods during which it may be done,
 - (d) the places at which it may be done.
- (7) A licence under this section which is granted in reliance on subsection (3) must also – 25
 - (a) specify the maximum number of plants which may be picked, cut, uprooted, possessed or otherwise exploited under the licence;
 - (b) include such conditions as the appropriate authority thinks fit for –
 - (i) requiring reports to be made to the authority about the things done under the licence, and 30
 - (ii) otherwise enabling the authority to monitor the things done under the licence.
- (8) In this section –
 - “the appropriate authority” means –
 - (a) in the case of a licence authorising anything to be done in England, the Secretary of State; 35
 - (b) in the case of a licence authorising anything to be done in Wales, the Welsh Ministers;
 - “livestock” includes any animal which is kept –
 - (a) for the purpose of food, wool, skins or fur; 40
 - (b) for the purpose of its use in the carrying on of any agricultural activity; or
 - (c) for the provision or improvement of shooting or fishing.

81 Licences: supplementary provisions

- (1) A licence under section 80 – 45
 - (a) may be, to any degree, general or specific,

- (b) may be granted to a particular person, to a class of persons or to persons generally,
 - (c) may be subject to compliance with any conditions specified in the licence,
 - (d) may be modified or revoked at any time by the appropriate authority, and
 - (e) subject to paragraph (d), is valid for the period specified in the licence. 5
- (2) For the purposes of subsection (1)(b), the definition of a class of persons may be framed by reference to any circumstances, including in particular their being authorised by any other person. 10
- (3) The appropriate authority may charge such reasonable sum (if any) as it may determine for the grant of a licence under section 80.
- (4) In this section “the appropriate authority” has the same meaning as in section 80.
- (5) For further provision as to the exercise of functions under section 80 and this section, see section 117 (duty to consult and give reasons etc.). 15

Penalties

82 Penalty for offences under Part 3

- (1) A person who commits an offence under any provision of this Part is liable –
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both; 20
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 12 months is to be read as a reference to 6 months. 25

PART 4

PESTS AND WEEDS ETC.

Orders to deal with pests and weeds etc.

- ### **83 Pest control orders** 30
- (1) The appropriate authority may make a pest control order in relation to any premises if satisfied that it is expedient to do so for the purpose of preventing damage to –
- (a) crops,
 - (b) pasture, 35
 - (c) animal or human foodstuffs,
 - (d) livestock,
 - (e) trees,
 - (f) hedges,
 - (g) banks or 40

- (h) any works on land.
- (2) A “pest control order” is an order which –
 - (a) requires a specified person to take such steps as may be necessary or as are specified for –
 - (i) the killing, capture or destruction on the premises of wild birds or other animals of a specified kind; 5
 - (ii) the taking or destruction on the premises of the eggs of wild birds of a specified kind, or
 - (b) states that the appropriate authority proposes to take specified steps for – 10
 - (i) the killing, capture or destruction on the premises of wild birds or other animals of a specified kind; or
 - (ii) the taking or destruction on the premises of the eggs of wild birds of a specified kind.
- (3) A person may be specified in a pest control order only if the person – 15
 - (a) is the owner or occupier of the premises to which the order relates; or
 - (b) has such rights in relation to those premises as are sufficient to enable the person to take the steps required by the order.
- (4) A kind of bird may be specified in a pest control order only if it is not of a kind listed in Schedule 3. 20
- (5) A kind of animal (other than a bird) may be specified in a pest control order only if it is of a kind listed in Schedule 29.
- (6) A pest control order must specify the time within which –
 - (a) the steps required by it must be taken, or (as the case may be)
 - (b) the steps proposed by it are proposed to be taken. 25

84 Captive animal control orders

- (1) The appropriate authority may make a captive animal control order in relation to any premises if satisfied that it is expedient to do so for the purpose of preventing damage to anything mentioned in paragraphs (a) to (h) of section 83(1). 30
- (2) A “captive animal control order” is an order which –
 - (a) requires a specified person to take such steps as may be necessary or as are specified to prevent the escape from the premises of animals which are of a specified kind and are kept in captivity there, or
 - (b) states that the appropriate authority proposes to take specified steps to prevent the escape from the premises of animals which are of a specified kind and are kept in captivity there. 35
- (3) A person may be specified in a captive animal control order only if the person –
 - (a) is the owner or occupier of the premises to which the order relates; or 40
 - (b) has such rights in relation to those premises as are sufficient to enable the person to take the steps required by the order.
- (4) A captive animal control order must specify the time within which –
 - (a) the steps required by it must be taken, or (as the case may be);
 - (b) the steps proposed by it are proposed to be taken. 45

85 Rabbit control orders

- (1) The appropriate authority may make a rabbit control order in relation to any premises if satisfied that it is expedient to do so for the purpose of preventing damage by wild rabbits to anything mentioned in paragraphs (a), (b), (e), (f), (g) or (h) of section 83(1). 5
- (2) A “rabbit control order” is an order which—
- (a) requires a specified person to take such steps as may be necessary or as are specified—
 - (i) to destroy or reduce the breeding places or places of cover for wild rabbits on the premises; 10
 - (ii) to exclude wild rabbits from those places;
 - (iii) to prevent wild rabbits living in any place on the premises from spreading to or doing damage in any other place; or
 - (b) states that the appropriate authority proposes to take specified steps to achieve any of the things mentioned in paragraphs (a)(i), (ii) or (iii). 15
- (3) A person may be specified in a rabbit control order only if the person is—
- (a) the owner or occupier of the premises to which the order relates; or
 - (b) has such rights in relation to those premises as are sufficient to be enable the person to take the steps required by the order.
- (4) A rabbit control order must specify the time within which— 20
- (a) the steps required by it must be taken, or (as the case may be)
 - (b) the steps proposed by it are proposed to be taken.

86 Rabbit clearance orders

- (1) The appropriate authority may by order— 25
- (a) designate an area as a rabbit clearance area, and
 - (b) make provision requiring steps to be taken for the purpose of—
 - (i) freeing the area of wild rabbits, and
 - (ii) in so far as it is not practicable to do that, preventing damage being caused by wild rabbits in the area.
- (2) Provision made under subsection (1)(b) may require steps to be taken by— 30
- (a) owners of premises within the rabbit clearance area,
 - (b) occupiers of premises within that area, or
 - (c) other persons with such rights in relation to premises within that area as are sufficient to enable them to take the steps.
- (3) Provision made under subsection (1)(b) may— 35
- (a) specify steps that are required to be taken;
 - (b) require the taking of such steps as may from time to time be necessary for the purpose mentioned in subsection (1)(b).
- (4) Subsection (5) applies where it appears to the appropriate authority that an occupier of premises within a rabbit clearance area is unable to free the premises of wild rabbits because of section 1(1)(a) of the Ground Game Act 1880 (occupier permitted to authorise only one person to kill rabbits on the premises with firearms). 40
- (5) The appropriate authority may grant the occupier a right to authorise such number of persons as the appropriate authority thinks reasonable to kill 45

rabbits on the premises with firearms (in addition to any person authorised by the occupier under section 1(1)(a) of the Ground Game Act 1880).

87 Weed control orders

- (1) The appropriate authority may make a weed control order in relation to any premises if satisfied that there are injurious weeds of a kind listed in Schedule 30 growing there. 5
- (2) A weed control order is an order which –
 - (a) requires a specified person to take such steps as may be necessary or as are specified to prevent the weeds from spreading, or
 - (b) states that the appropriate authority proposes to take specified steps to prevent the weeds from spreading. 10
- (3) A person may be specified in a weed control order only if the person is –
 - (a) the owner or occupier of the premises to which the order relates; or
 - (b) has such rights in relation to those premises as are sufficient to enable the person to take the steps required by the order. 15
- (4) A weed control order must specify the time within which –
 - (a) the steps required by it must be taken, or (as the case may be)
 - (b) the steps proposed by it are proposed to be taken.
- (5) A weed control order must specify the kind of injurious weeds with which it is concerned. 20

88 Further provision in connection with orders

Schedule 31 contains further provision in connection with orders under sections 83 to 87.

89 Interpretation of sections 83 to 88 etc.

- (1) In sections 83 to 88 and Schedule 31 – 25
 - “appropriate authority”, in relation to any premises or any area, means –
 - (a) in a case where the premises or area is in England, the Secretary of State;
 - (b) in a case where the premises or area is in Wales, the Welsh Ministers; 30
 - “livestock” includes any animal which is kept for the purpose of –
 - (a) food, wool, skin or fur, or
 - (b) its use in the carrying on of any agricultural activity;
 - “occupier” means –
 - (a) in the case of unoccupied premises, the person entitled to occupy the premises; 35
 - (b) in the case of any public road, the authority by whom the road is being maintained;
 - “owner”, in relation to any premises consisting of land, means –
 - (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or 40
 - (b) a person in possession under a lease;

“pasture” includes meadow;
 “premises” includes any land;
 “specified” means specified in an order.

- (2) For the purposes of section 81 of the Natural Environment and Rural Communities Act 2006 (functions which a designated body may not be authorised to perform) the powers conferred by sections 83, 84, 85 and 87 are not to be regarded as powers to make subordinate legislation. 5

Further provision concerning pests and weeds

90 Use of poison against certain pests

- (1) It is not an offence under section 37(1)(a) to use poison in a gaseous state in any hole, burrow or earth for, or in connection with, the purpose of killing an animal of a kind listed in Schedule 29 unless the use of the poison contravenes regulations made for the purposes of this section. 10
- (2) In proceedings for an offence under section 37(1)(a) consisting in the use of poison it is a defence to show that – 15
- (a) the poison was used for or in connection with the purpose of killing –
 - (i) insects or other invertebrates,
 - (ii) rats,
 - (iii) mice, or
 - (iv) other small ground vermin, 20
 - (b) it was necessary to kill those animals for one of the purposes of –
 - (i) protecting other animals;
 - (ii) preserving public health; or
 - (iii) facilitating agriculture, and
 - (c) the defendant took all reasonable precautions to prevent the use of the poison causing harm to protected animals (within the meaning of the Animal Welfare Act 2006). 25
- (3) But the defence provided by subsection (2) may not be relied upon if the prosecution proves that the use of the poison contravened regulations made for the purposes of this section. 30
- (4) Regulations under this section may prohibit or restrict the use of any specified poison for or in connection with the purpose of killing animals of any description referred to in subsection (1) or (2)(a).

91 Provision of services and equipment for pest control etc.

- (1) The Secretary of State and the Welsh Ministers may provide services and equipment, appliances and other material for the purpose of assisting in – 35
- (a) killing, capturing or destroying animals of a kind listed in Schedule 29;
 - (b) killing, capturing or destroying wild birds of a kind not listed in Schedule 3;
 - (c) taking or destroying the eggs of wild birds of a kind not listed in Schedule 3; 40
 - (d) destroying or reducing breeding places or places of cover for rabbits;
 - (e) excluding rabbits from breeding places or places of cover;

- (f) preventing rabbits living in any place from spreading to or doing damage in any other place;
 - (g) preventing the spread of injurious weeds listed in Schedule 30.
- (2) The Secretary of State and the Welsh Ministers may make reasonable charges in respect of any assistance given under this section, and may recover the amount of any charge from the person at whose request the assistance was given. 5

92 Code of practice on preventing the spread of ragwort

- (1) The Secretary of State may issue or approve a code of practice giving guidance on how to prevent the spread of ragwort in England. 10
- (2) The Welsh Ministers may issue or approve a code of practice giving guidance on how to prevent the spread of ragwort in Wales.
- (3) The Secretary of State and the Welsh Ministers may –
- (a) revoke a code issued by them;
 - (b) revise a code issued by them; 15
 - (c) withdraw their approval of a code;
 - (d) approve the revision of a code approved by them.
- (4) The Secretary of State and the Welsh Ministers must consult such persons as they consider appropriate before acting under subsections (1), (2) or (3).
- (5) The Secretary of State and the Welsh Ministers must ensure that a code issued or approved by them under this section is published in a way that is appropriate for bringing it to the attention of people likely to be affected by it. 20
- (6) A code issued or approved under this section must be laid before –
- (a) Parliament, if issued or approved by the Secretary of State;
 - (b) the National Assembly for Wales, if issued or approved by the Welsh Ministers. 25
- (7) A person's failure to comply with a provision of a code issued or approved under this section does not make the person liable to criminal or civil proceedings.
- (8) A code issued or approved under this section – 30
- (a) is admissible in evidence in criminal or civil proceedings, and
 - (b) may be taken into account by a court in any case in which it appears to the court to be relevant.
- (9) Where the Secretary of State or the Welsh Ministers revise or approve the revision of a code, subsections (5) to (8) apply to the revised code as they applied to the original. 35

93 Spreading of myxomatosis

- (1) It is an offence to use, or permit the use of, a rabbit infected with myxomatosis to spread the disease among uninfected rabbits.
- (2) But subsection (1) does not apply where the use is authorised by the Animals (Scientific Procedures) Act 1981. 40
- (3) A person who commits an offence under this section is liable –

- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months. 5

PART 5

INVASIVE NON-NATIVE SPECIES ETC.

- 94 Interpretation of Part 5** 10
- (1) This section applies for the purposes of this Part.
 - (2) “Species” means any kind of animal or plant.
 - (3) A species is “invasive” if, uncontrolled, it would be likely to have a significant adverse impact on –
 - (a) biodiversity, 15
 - (b) other environmental interests, or
 - (c) social or economic interests.
 - (4) A species of fish is also “invasive” if, uncontrolled, it might compete with, displace, prey on or harm the habitat of any freshwater fish, shellfish or salmon in England and Wales. 20
 - (5) A species is “non-native” if its natural range does not include any part of Great Britain.
 - (6) A species of animal is “no longer normally present in Great Britain” if –
 - (a) its natural range includes all or any part of Great Britain, and
 - (b) it has ceased to be ordinarily resident in, or a regular visitor to, Great Britain in a wild state. 25
 - (7) A reference to an animal includes a reference to an animal at any stage of development, including larva, pupa and eggs.
 - (8) A reference to a plant includes –
 - (a) a reference to fungi and algae; 30
 - (b) a reference to a plant at any stage of development, including bulbs, corms, rhizomes, spores and seeds.
- 95 Notification of presence of invasive non-native species etc.**
- (1) Regulations may make provision about the notification of the presence at any specified place of animals or plants of a specified species where persons are, or become, aware of their presence there. 35
 - (2) A species may be specified in regulations under this section only if it appears to the Secretary of State or, as the case may be, the Welsh Ministers that it is –
 - (a) an invasive non-native species, or
 - (b) an invasive species of animal or plant that is no longer normally present in Great Britain. 40

- (3) The provision that may be made by regulations under this section includes provision for, or in connection with, –
- (a) the persons (or types of persons) who must make a notification;
 - (b) the circumstances in which a notification must be made;
 - (c) the times of the year when a notification must be made; 5
 - (d) the persons to whom a notification must be made;
 - (e) the form and method of any notification;
 - (f) the period within which any notification must be made.
- (4) Regulations under this section may require a person (or type of person) to make a notification in respect of animals or plants of any species only if the Secretary of State or (as the case may be) the Welsh Ministers consider that the person (or that type of person) has or should have knowledge of, or is likely to encounter, animals or plants of that species. 10
- (5) Regulations under this section may make different provision for –
- (a) different species; 15
 - (b) different persons;
 - (c) different times of the year;
 - (d) different areas or places.
- This is not to be taken to limit the generality of section 166(12)(a).
- (6) A person who, without reasonable excuse, fails to make a notification in accordance with the requirements of regulations under this section is guilty of an offence. 20

96 Possessing, selling and importing invasive non-native species etc.

- (1) Subject to sections 98 and 100, it is an offence for a person to –
- (a) be in possession of, 25
 - (b) be in control of,
 - (c) sell,
 - (d) offer for sale,
 - (e) expose for sale,
 - (f) transport for the purpose of sale, or 30
 - (g) import from a place outside England and Wales,
- any live animal or plant of a species specified in regulations.
- (2) Subject to sections 98 and 100, it is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any animal or plant of a species specified in regulations. 35
- (3) A species may be specified in regulations under subsection (1) or (2) only if it appears to the Secretary of State or, as the case may be, the Welsh Ministers that it is –
- (a) an invasive non-native species, or 40
 - (b) an invasive species of animal or plant that is no longer normally present in Great Britain.
- (4) Regulations under subsection (1) may include provision for or in connection with the compensation of persons who, at the time of the coming into force of

the regulations, may no longer have in their possession or control an animal or plant of a species specified in the regulations.

- (5) Regulations under subsection (1) may provide that it is not an offence under subsection (1)(a) or (b) for a person to be in possession or control of an animal or plant of a species specified in the regulations unless the person is in possession or control of it for the purpose of sale. 5
- (6) Regulations under subsection (1) may make different provision for – 10
- (a) different species;
 - (b) different persons;
 - (c) different times of the year;
 - (d) different areas or places.

This is not to be taken to limit the generality of section 166(12)(a).

97 Introducing new species etc.

- (1) Subject to sections 98 and 100, it is an offence for a person to release from captivity, or allow to escape from captivity, any animal which is of a species that – 15
- (a) is not ordinarily resident in, or a regular visitor to, Great Britain in a wild state, or
 - (b) is listed in Part 1 of Schedule 32.
- (2) Subject to sections 98 and 100, it is an offence for a person to plant or otherwise cause to grow in the wild any plant which is of a species that is listed in Part 2 of Schedule 32. 20
- (3) Regulations may disapply subsection (1) or (2) in relation to – 25
- (a) any person specified in the regulations;
 - (b) any conduct undertaken for the purposes of any enactment so specified;
 - (c) any conduct authorised by, under or in pursuance of any enactment so specified;
 - (d) any conduct prohibited by or under any enactment so specified.
- (4) In this section “enactment” includes directly applicable EU legislation. 30

98 Defence to proceedings under section 96 and 97

- (1) In proceedings for an offence under sections 96 or 97 it is a defence to show that the defendant took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) But where the defence provided by this section involves an allegation that the commission of the offence was due to an act or omission of another person, the defendant is not, without leave of the court, entitled to rely on the defence unless, at least seven days before the hearing, the defendant served on the prosecution a notice giving such information identifying or assisting in the identification of the other person as was in the defendant’s possession. 35 40

99 Penalty for offences under Part 5

- (1) A person who commits an offence under section 95 is liable on summary conviction to imprisonment for a period not exceeding 6 months or to a fine, or to both.
- (2) A person who commits an offence under section 96 or 97 is liable – 5
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months. 10

100 Licences

- (1) Sections 96 and 97 do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under this section. 15
- (2) A licence under this section –
 - (a) may be, to any degree, general or specific,
 - (b) may be granted to a particular person, to a class of persons or to persons generally,
 - (c) may be subject to compliance with any conditions specified in the licence, 20
 - (d) may be modified or revoked at any time by the appropriate authority, and
 - (e) subject to paragraph (d), is valid for the period specified in the licence.
- (3) For the purposes of subsection (2)(b), the definition of a class of persons may be framed by reference to any circumstances including, in particular, the person being authorised by any other person. 25
- (4) The appropriate authority may charge such reasonable sum (if any) as it may determine for the grant of a licence under this section.
- (5) In this section “the appropriate authority” means – 30
 - (a) in the case of a licence authorising anything to be done in England, the Secretary of State;
 - (b) in the case of a licence authorising anything to be done in Wales, the Welsh Ministers.
- (6) For further provision as to the exercise of functions under this section, see section 117 (duty to consult and give reasons etc.). 35

101 Code of practice

- (1) The Secretary of State may issue or approve a code of practice giving practical guidance in respect of the application in England of any provision made by or under this Part. 40
- (2) The Welsh Ministers may issue or approve a code of practice giving practical guidance in respect of the application in Wales of any provision made by or under this Part.

- (3) The Secretary of State and the Welsh Ministers may –
- (a) revoke a code issued by them;
 - (b) revise a code issued by them;
 - (c) withdraw their approval of a code;
 - (d) approve the revision of a code approved by them. 5
- (4) The Secretary of State and the Welsh Ministers must consult such persons as they consider appropriate before acting under subsection (1), (2) or (3).
- (5) The Secretary of State and the Welsh Ministers must ensure that a code issued or approved by them under this section is published in a way that is appropriate for bringing it to the attention of people likely to be affected by it. 10
- (6) A code issued or approved under this section must be laid before –
- (a) Parliament, if issued or approved by the Secretary of State;
 - (b) the National Assembly for Wales, if issued or approved by the Welsh Ministers.
- (7) A person’s failure to comply with a provision of a code issued or approved under this section does not make the person liable to criminal or civil proceedings. 15
- (8) A code issued or approved under this section –
- (a) is admissible in evidence in criminal or civil proceedings, and
 - (b) may be taken into account by a court in any case in which it appears to the court to be relevant. 20
- (9) Where the Secretary of State or Welsh Ministers revise or approve the revision of a code, subsections (5) to (8) apply to the revised code as they applied to the original.

PART 6 25

MISCELLANEOUS

Poaching

102 Poaching: game

- (1) A person (P) who –
- (a) kills, injures or captures any game on any land, with the intention of killing, injuring or capturing it. 30
 - (b) enters or remains on any land in search or pursuit of game, with the intention of killing, injuring or capturing it, or of removing it if dead, or
 - (c) removes any dead game on any land, or enters or remains on any land with the intention of removing dead game on that land, 35
- commits an offence, unless section 104(2) or (4) applies.
- (2) In subsection (1)(b) and (c) references to removing dead game include taking possession of it.

103 Poaching: eggs of game birds and certain other birds

- (1) This section applies to – 40

- (a) eggs of any game bird; and
 - (b) eggs of a swan, wild duck, teal or widgeon.
- (2) A person (“P”) commits an offence if –
- (a) P takes an egg to which this section applies from a nest on any land; or
 - (b) P intentionally damages or destroys an egg to which this section applies that is in, or has been taken from, a nest on any land. 5
- (3) For the purposes of this section anything done to a bird egg that prevents it from hatching may be treated as damaging or destroying it.

104 Poaching under sections 102 or 103: exceptions

- (1) Subsections (2) to (4) apply where a person (“P”) has done – 10
- (a) anything mentioned in section 102(1)(a), (b) or (c) (offences relating to game or dead game on any land); or
 - (b) anything mentioned in subsection (2)(a) or (b) of section 103 (offences relating to bird eggs that are in or have been taken from nests on any land). 15
- (2) P does not commit an offence under section 102 or 103 (as the case may be) by reason of doing the thing in question if P is authorised to do it on the land in question by virtue of having –
- (a) a private right to kill or take game or birds of a kind mentioned in section 103(1)(b); 20
 - (b) permission to kill or take game, or to kill and take birds of a kind mentioned in section 103(1)(b) (as the case may require) granted by another person with a private right to give that permission;
 - (c) any other lawful authority to do the thing in question.
- (3) For the purposes of subsections (2)(c) P has “other lawful authority” to do something if P is authorised or required to do it (without needing permission from a person with a private right to give it) by, or by an authority of any kind granted under, an Act or subordinate legislation (and, accordingly, P does not have such lawful authority by virtue only of having a licence granted under Part 1 or 2). 25 30
- (4) P does not commit an offence under section 102 or 103 by virtue of doing the thing in question in the belief that –
- (a) P has lawful authority to do it by virtue of anything mentioned in subsection (2)(a) to (c); or
 - (b) P would have permission to do it granted by another person – 35
 - (i) with a private right to give permission to P to kill or take game or birds of a kind mentioned in section 103(1)(b) (as the case may require),
 - (ii) with any other lawful authority to give P permission to do the thing in question, 40on the assumption that the other person was aware of P’s doing it and the circumstances in which it was done.
- (5) It is an offence for a person (“Q”) to purport to give another person permission to do anything mentioned in subsection (1)(a) or (b).

- (6) But no offence is committed under subsection (5) if Q has, or believes that Q has, lawful authority (by virtue of anything mentioned in subsection (2)(a) to (c)) to give the permission in question.

105 Sale and purchase, etc. of poached game etc.

- (1) It is an offence for a person (P) to – 5
- (a) sell, offer for sale or expose for sale,
 - (b) be in possession of for the purpose of sale,
 - (c) transport for the purpose of sale, or
 - (d) buy or receive, or offer to buy,
- anything to which this section applies, subject to subsection (3). 10
- (2) This section applies to –
- (a) a game animal, or any part of a game animal, that has been killed or captured in circumstances which constitute an offence under section 102,
 - (b) any game animal, or any part of a game animal, that is bred from a game animal that has been captured in those circumstances; 15
 - (c) an egg, or any part of an egg, of a game bird that has been captured in those circumstances,
 - (d) an egg to which section 103 applies, or any part of such an egg, which has been taken in circumstances which constitute an offence under that section, and 20
 - (e) anything derived from –
 - (i) a game animal, or part of a game animal, that falls within paragraph (a) or (b);
 - (ii) an egg, or part of an egg, that falls within paragraph (c) or (d). 25
- (3) Doing something mentioned in subsection (1) is only an offence if P knows or has reason to believe –
- (a) in the case of anything mentioned in subsection (2)(a), that it is or is part of a game animal that has been killed or captured in circumstances which constitute an offence under section 102; 30
 - (b) in the case of anything mentioned in subsection (2)(b), that it is or is part of a game animal bred from a game animal that has been captured in circumstances which constitute an offence under section 102;
 - (c) in the case of an egg mentioned in subsection (2)(c), that it is or is part of an egg laid by a game bird that has been captured in circumstances which constitute an offence under section 102; 35
 - (d) in the case of anything mentioned in subsection (2)(d), that it is or is part of an egg taken in circumstances which constitute an offence under section 103; or
 - (e) in the case of anything mentioned in subsection (2)(e), that it was derived as mentioned subsection (2)(e). 40
- (4) It is an offence for a person to publish or cause to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell anything mentioned in subsection (2).

106 Penalty for poaching offences

- (1) A person who commits an offence under any provision of section 102, 103 or 105 is liable –
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both; 5
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 12 months is to be read as a reference to 6 months. 10

107 Sections 102 to 106: meaning of “game”

- (1) In sections 102 to 106 –
 - (a) “game” refers to one or more animals of any of the kinds specified in the list in subsection (2);
 - (b) “game animal” means a particular animal of any of the kinds specified in that list; and 15
 - (c) “game bird” means a game animal that is a bird.
- (2) The kinds of animal which are game for the purposes of section 102 are –
 - Deer (subject to subsection (4))
 - Hare 20
 - Rabbit
 - Pheasant
 - Partridge
 - Black grouse
 - Red grouse 25
 - Ptarmigan
 - Woodcock
 - Snipe.
- (3) Unless otherwise stated, an entry in the list in subsection (2) includes all animals of that kind, whether or not they – 30
 - (a) belong to a single species; or
 - (b) are wild animals.
- (4) The entry for deer in subsection (2) does not include deer which –
 - (a) are kept by a person by way of business on land enclosed by a deer proof barrier – 35
 - (i) for the production of meat or other foodstuffs, skins or other by-products, or
 - (ii) as breeding stock; and
 - (b) are conspicuously marked in such a way as to identify them as deer kept by that person as mentioned in paragraph (a). 40
- (5) Regulations may –
 - (a) repeal an entry in the list in subsection (2).
 - (b) where an entry covers more than one species, amend that entry so as to exclude any particular species from it, or
 - (c) add an entry to the list for a kind of animal. 45

- (6) The powers under subsection (5)(a) and (b) may only be used where the authority making the regulations considers that the kind of animal in question, or the species of animal being excluded from the entry in question (as the case may be) –
- (a) is extinct in the wild, or 5
 - (b) can no longer be exploited through hunting without a licence under Part 1 or 2 of this Act.
- (7) The power under subsection (5)(c) may only be used where the authority making the regulations considers that animals of the kind in question –
- (a) are capable of being exploited through hunting without a licence under Part 1 or 2 of this Act; 10
 - (b) are being or will be exploited in that way; and
 - (c) should in future be treated as game for the purposes for which that term is defined by subsection (2).

Leghold traps 15

108 Prohibition on use of leghold traps

- (1) It is an offence to use a leghold trap for or in connection with the purpose of killing, injuring or capturing a wild bird or other wild animal.
- (2) In subsection (1) “leghold trap” means a device designed to restrain or capture an animal by means of jaws that close on a limb of the animal. 20
- (3) A person who commits an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 25
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

Prevention of damage to fisheries by seals

109 Authorisation to enter land for the purpose of preventing damage to fisheries by seals 30

- (1) The Minister may, after consultation with the Natural Environment Research Council, authorise a person to enter any land for the purpose of –
- (a) killing or capturing seals in order to prevent serious damage to fisheries, or 35
 - (b) obtaining information relating to seals for the purpose mentioned in paragraph (a).
- (2) An authorisation must specify –
- (a) the land to be entered;
 - (b) the period, not exceeding 8 weeks, during which the power of entry may be exercised; 40
 - (c) the purpose of the entry;

- (d) where the entry is for the purpose mentioned in subsection (1)(a), the number, species and age of seals that may be killed or captured.
- (3) An authorisation may impose other conditions on –
- (a) the exercise of the power of entry, or
 - (b) the manner of giving effect to the authorisation. 5
- (4) Where the Minister proposes to issue an authorisation to enter land under subsection (1)(a) –
- (a) the Minister must give at least 28 days’ notice of the proposal to the occupier of the land;
 - (b) the occupier of the land may make representations to the Minister in respect of the proposed authorisation. 10
- (5) The Minister may not issue an authorisation to enter land under subsection (1)(a) if satisfied that the occupier has killed or captured the number of seals, of the relevant species and age, that the Minister proposed to specify in the authorisation. 15
- (6) Where the Minister proposes to issue an authorisation to enter land under subsection (1)(b), the Minister must give at least 48 hours’ notice of the proposal to the occupier of the land.
- (7) Where the Minister has been unable to identify the occupier of land for the purposes of giving notice under subsection (4)(a) or (6), notice may be given by leaving it conspicuously affixed to an object on the land. 20
- (8) Any seals killed or taken by a person authorised under this section may be disposed of as the Minister thinks fit.
- (9) Any person authorised under this section to enter land –
- (a) must, if required by the occupier of that land, produce the authority to enter, and
 - (b) may be accompanied by such other persons as the authorised person considers necessary. 25
- (10) References in this section to land include references to land covered by water.
- (11) In this section, “the Minister” means – 30
- (a) the Secretary of State, in relation to England, and
 - (b) the Welsh Ministers, in relation to Wales.

Amendment of the Animal Health Act 1981

110 Orders under the Animal Health Act 1981 affecting protected birds and animals 35

- (1) The Animal Health Act 1981 is amended as follows.
- (2) Before section 80, and the italic heading before that section, insert –

“Orders affecting protected birds and animals

79A Special provision for orders affecting protected birds and animals

Schedule 4A (which makes special provision in relation to orders under this Act which affect protected birds and animals) has effect.” 40

- (3) After Schedule 4 insert –

“SCHEDULE 4A

ORDERS AFFECTING PROTECTED BIRDS AND ANIMALS

Orders affecting protected birds

- | | | |
|---|---|----|
| 1 | <p>(1) This paragraph applies to any order under this Act which requires or authorises the doing of anything which would, but for section 25(b) of the Wildlife Act 2015, be an offence under Part 1 of that Act (protection of birds).</p> | 5 |
| | <p>(2) Before making an order to which this paragraph applies –</p> <p style="padding-left: 20px;">(a) the Secretary of State must consult an England conservation body;</p> <p style="padding-left: 20px;">(b) the Welsh Ministers must consult a Wales conservation body.</p> | 10 |
| | <p>(3) The Secretary of State or the Welsh Ministers may make an order to which this paragraph applies only if satisfied that –</p> <p style="padding-left: 20px;">(a) it is expedient to make the order for a purpose mentioned in section 23(2) of the Wildlife Act 2015;</p> <p style="padding-left: 20px;">(b) there is no other satisfactory way of achieving that purpose,</p> <p style="padding-left: 20px;">(c) making the order will not be detrimental to the maintenance of the population of any species of bird at a favourable conservation status within its natural range, and</p> <p style="padding-left: 20px;">(d) making the order is not contrary to the United Kingdom’s obligation to comply with –</p> <p style="padding-left: 40px;">(i) the Convention on the Conservation of Migratory Species of Wild Animals;</p> <p style="padding-left: 40px;">(ii) the Agreement on the Conservation of African-Eurasian Migratory Waterbirds;</p> <p style="padding-left: 40px;">(iii) the Agreement on the Conservation of Albatrosses and Petrels.</p> | 15 |
| | <p>(4) An order to which this paragraph applies which requires or authorises anything to be done in respect of birds must specify –</p> <p style="padding-left: 20px;">(a) the species of bird in respect of which it must or may be done;</p> <p style="padding-left: 20px;">(b) the means, arrangements or methods which must or may be used in doing it;</p> <p style="padding-left: 20px;">(c) the times at which or the periods over which it must or may be done, and</p> <p style="padding-left: 20px;">(d) the places at which it must or may be done.</p> | 20 |
| | <p style="padding-left: 20px;">(a) the species of bird in respect of which it must or may be done;</p> <p style="padding-left: 20px;">(b) the means, arrangements or methods which must or may be used in doing it;</p> <p style="padding-left: 20px;">(c) the times at which or the periods over which it must or may be done, and</p> <p style="padding-left: 20px;">(d) the places at which it must or may be done.</p> | 35 |

Orders affecting protected animals

- | | | |
|---|---|----|
| 2 | <p>(1) This paragraph applies to any order under this Act which requires or authorises the doing of anything which would, but for section 69(b) of the Wildlife Act 2015, be an offence under Part 2 of that Act (protection of animals).</p> | 40 |
| | <p>(2) Before making an order to which this paragraph applies –</p> <p style="padding-left: 20px;">(a) the Secretary of State must consult an England conservation body;</p> | |

- (b) the Welsh Ministers must consult a Wales conservation body.
 - (3) The Secretary of State or the Welsh Ministers may make an order to which this paragraph applies only if satisfied that –
 - (a) it is expedient to make the order for a purpose mentioned in section 67(2) of the Wildlife Act 2015; 5
 - (b) there is no other satisfactory way of achieving that purpose,
 - (c) making the order will not be detrimental to the maintenance of the population of any species of animal at a favourable conservation status in its natural range, and
 - (d) making the order is not contrary to the United Kingdom’s obligation to comply with – 10
 - (i) the Convention on the Conservation of Migratory Species of Wild Animals;
 - (ii) the Agreement on International Humane Trapping Standards between the European Community, Canada and the Russian Federation. 15
 - (4) Sub-paragraph (3) is to be ignored in the case of an order under this Act if the only thing the order requires or authorises which would, but for section 69(b) of the Wildlife Act 2015, be an offence under Part 2 of that Act is the use of a spring trap for or in connection with the purpose of killing, injuring or capturing a relevant wild animal. 20
 - (5) Paragraphs (b), (c) and (d) of sub-paragraph (3) are to be ignored in the case of an order under this Act if the only thing the order requires or authorises which would, but for section 69 of the Wildlife Act 2015, be an offence under Part 2 of that Act is – 25
 - (a) the use of a device listed in Part 1 of Schedule 16 to that Act (other than a spring trap) for or in connection with the purpose of killing, injuring or capturing a relevant wild animal,
 - (b) the use of any substance listed in that Part of that Schedule for or in connection with that purpose, or 30
 - (c) the carrying out of any activity listed in that Part of that Schedule for or in connection with that purpose.
 - (6) Paragraphs (a), (b) and (c) of sub-paragraph (3) are to be ignored in the case of an order under this Act if the only thing the order requires or authorises which would, but for section 69 of the Wildlife Act 2015, be an offence under Part 2 of that Act is the use of a trap or a snare (other than a regulated snare) for or in connection with the purpose of killing, injuring or capturing a stoat. 35
- Interpretation etc.* 40
- 3 (1) In this Schedule –
- “England conservation body” means –
 - (a) Natural England;
 - (b) any body designated as such a body by regulations made by statutory instrument by the Secretary of State; 45
 - “favourable conservation status” has the meaning given by paragraph (i) of Article 1 of Council Directive 92/43/EEC of

- 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
- “regulated snare” has the meaning given by Part 2 of Schedule 16 to the Wildlife Act 2015;
- “relevant wild animal” has the meaning given by section 37 of that Act; 5
- “stoat” has the meaning given by section 38 of that Act;
- “Wales conservation body” means –
- (a) the Natural Resources Body for Wales;
 - (b) any body designated as such a body by regulations made by statutory instrument by the Welsh Ministers. 10
- (2) A statutory instrument containing regulations made by the Secretary of State under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations made by the Welsh Ministers under sub-paragraph (1) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.” 15

Pesticides harmful to wildlife

111 Possession of pesticides harmful to wildlife

- (1) It is an offence for a person to have in his or her possession a pesticide containing an ingredient that is specified for the purposes of this section by regulations made by the Secretary of State. 20
- (2) The Secretary of State may not make regulations under subsection (1) unless satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm. 25
- (3) It is a defence for a person charged with an offence under this section to show that the possession of the pesticide was for the purposes of doing anything in accordance with –
 - (a) provision made by or under the Poisons Act 1972;
 - (b) regulations made under section 16(2) of the Food and Environment Protection Act 1985; 30
 - (c) Regulation (EU) No 528/2012 of the European Parliament and of the Council;
 - (d) the Plant Protection Products Regulations 2011 (S.I. 2011/2131) or any regulations replacing those regulations. 35
- (4) A person who commits an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 40
- (5) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.

- (6) The Secretary of State must take such steps as are reasonably practicable to bring information about the effect of regulations under subsection (1) to the attention of persons likely to be affected by the regulations.
- (7) In this section “pesticide” means –
 - (a) a pesticide as defined by section 16(15) of the Food and Environment Protection Act 1985 (the “1985 Act”); 5
 - (b) anything to which Part 3 of the 1985 Act applies (by virtue of section 16(16) of the 1985 Act) as if it were a pesticide.

112 Enforcement powers in connection with pesticides

- (1) An inspector may – 10
 - (a) enter any premises if the inspector has reasonable grounds for suspecting that there may be evidence on the premises that an offence is being committed under section 111;
 - (b) require any person whom the inspector reasonably believes has information about the formulation, effects or use of any substance found on the premises to provide that information; 15
 - (c) seize any substance found on the premises, if the inspector has reasonable grounds for believing that it is evidence of an offence under section 111.
- (2) “Inspector” means – 20
 - (a) a person authorised in writing by the Secretary of State to exercise the powers under this section in relation to England;
 - (b) a person authorised in writing by the Welsh Ministers to exercise the powers under this section in relation to Wales.
- (3) An authorisation under subsection (2) is subject to any conditions or limitations specified in it. 25
- (4) Schedule 2 to the Food and Environment Protection Act 1985 (officers and their powers), other than paragraph 2A(1)(b) of that Schedule, has effect with respect to inspectors as it has effect with respect to persons authorised to enforce Part 3 of that Act. 30
- (5) Subsections (6) and (7) apply where an inspector seizes a substance under subsection (1)(c).
- (6) The inspector must give to a person on the premises, or affix conspicuously to an object on the premises, a notice stating – 35
 - (a) what the inspector has seized and the ground for seizing it, and
 - (b) the address for service of any claim for the return of the substance.
- (7) The inspector – 40
 - (a) may retain the substance for so long as is reasonably necessary for the purposes of any investigation or proceedings in respect of an offence under section 111;
 - (b) subject to any order for forfeiture under section 124 or any claim made within the relevant period by a person entitled to the return of the substance, may retain the substance or, after the relevant period, destroy or otherwise dispose of it.
- (8) The “relevant period” means the period ending 28 days after – 45

- (a) any proceedings in respect of an offence under section 111 are finally determined, or
 - (b) if no such proceedings are brought, the time for bringing such proceedings expires.
- (9) In this section a reference to “premises” includes a reference to land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport. 5

113 Codes of practice

- (1) The Secretary of State may issue a code of practice about the exercise of the powers under – 10
- (a) section 112, or
 - (b) Schedule 2 to the Food and Environment Protection Act 1985 as applied by section 112(4).
- (2) The Secretary of State may revise or replace a code issued under this section.
- (3) An inspector must have regard to the code when exercising any power to which the code relates. 15
- (4) The failure of an inspector to have regard to a provision of a code does not of itself make the inspector liable to criminal or civil proceedings.
- (5) A code under this section is to be admissible in evidence.
- (6) If a code under this section appears to a court to be relevant to any question arising in proceedings it may be taken into account in determining that question. 20

Offences of possessing etc. certain things

114 Possession of things capable of being used for committing an offence

- (1) It is an offence for a person to have in his or her possession, for the purpose of committing a relevant offence, anything capable of being used for committing that offence. 25
- (2) For the purposes of subsection (1) “relevant offence” means an offence under –
- (a) any provision of Part 1, 2, 3 or 5, or
 - (b) section 102, 108, 118 or 119. 30
- (3) A person who commits an offence under this section is liable to the same punishment as if the person had committed the relevant offence in question.

115 Selling things capable of being used to kill, injure or capture wild animals

- (1) Subject to section 116, it is an offence to –
- (a) sell, 35
 - (b) give away,
 - (c) offer for sale,
 - (d) expose for sale,
 - (e) be in possession of for the purpose of sale, or
 - (f) transport for the purpose of sale, 40

- anything listed in Schedule 33 (certain things capable of being used to kill, injure or capture wild animals).
- (2) Subject to section 116, it is an offence for a person to publish any advertisement likely to be understood as conveying that the person sells or buys, or intends to sell or buy, things listed in Schedule 33. 5
- (3) A person who commits an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 10
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.
- 116 Section 115: licences**
- (1) Section 115 does not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under this section. 15
- (2) A licence under this section –
- (a) may be, to any degree, general or specific,
 - (b) may be granted to a particular person, to a class of persons or to persons generally, 20
 - (c) may be subject to compliance with any conditions specified in the licence,
 - (d) may be modified or revoked at any time by the appropriate authority, and
 - (e) subject to paragraph (d), is valid for the period specified in the licence. 25
- (3) For the purposes of subsection (2)(b), the definition of a class of persons may be framed by reference to any circumstances including, in particular, their being authorised by any other person.
- (4) The appropriate authority may charge such reasonable sum (if any) as it may determine for the grant of a licence under this section. 30
- (5) In this section “the appropriate authority” means –
- (a) in the case of a licence authorising anything to be done in England, the Secretary of State;
 - (b) in the case of a licence authorising anything to be done in Wales, the Welsh Ministers. 35
- (6) For further provision as to the exercise of functions under this section, see section 117 (duty to consult and give reasons etc.).

Further provisions relating to licensing etc.

117 Duty to consult and give reasons etc.

- (1) The Secretary of State – 40
- (a) must from time to time consult an England conservation body as to the exercise of the Secretary of State’s licensing functions;

- (b) must not grant a licence of any description under this Act unless an England conservation body has advised as to the circumstances in which, in its opinion, licences of that description should be granted.
- (2) The Welsh Ministers –
- (a) must from time to time consult a Wales conservation body as to the exercise of their licensing functions; 5
- (b) must not grant a licence of any description under this Act unless a Wales conservation body has advised as to the circumstances in which, in its opinion, licences of that description should be granted.
- (3) For the purposes of subsection (1)(a) and (2)(a) different England conservation bodies or (as the case may be) Wales conservation bodies may be consulted in respect of different licensing functions. 10
- (4) If the Secretary of State or the Welsh Ministers receive a request to grant, modify or revoke a licence under this Act they must give the person making the request reasons for their decision. 15
- (5) If the Secretary of State or the Welsh Ministers modify or revoke a licence under this Act which was granted at the request of any person they must give the person reasons for the modification or revocation.
- (6) In this section –
- “licensing function” means a function under section 23, 24, 67, 68, 80, 81, 100 or 116; 20
- “England conservation body” means –
- (a) Natural England;
- (b) any body designated by regulations as such a body;
- “Wales conservation body” means – 25
- (a) the Natural Resources Body for Wales;
- (b) any body designated by regulations as such a body.

118 Failure to comply with a licence condition

- (1) It is an offence for a person to whom a licence has been granted to fail to comply with a condition specified in that licence. 30
- (2) In subsection (1), “licence” means a licence granted under any of sections 23, 67, 80, 100 or 116.
- (3) In proceedings against a person for an offence under this section it is a defence to show that –
- (a) the person took all reasonable precautions and exercised all due diligence to avoid commission of the offence, or 35
- (b) the commission of the offence was otherwise due to matters beyond the person’s control.

119 False statements made for the purpose of obtaining registration or licence

- (1) It is an offence for a person (P) to knowingly or recklessly make a false statement or a false representation for the purpose of obtaining, for P or another person, a registration or a licence to which subsection (2) applies. 40
- (2) This subsection applies to –

- (a) a registration in accordance with regulations made under section 17(1);
 - (b) a licence under any of sections 23, 67, 80, 100 or 116.
- (3) For the purposes of this section, a person is to be treated as making a false statement if the person supplies a document or information which is false in a material particular. 5

120 Penalty for offences relating to licensing etc.

- (1) A person who commits an offence under section 118 or 119 is liable—
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 10
- (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 12 months is to be read as a reference to 6 months.

Causing or permitting etc the commission of an offence 15

121 Causing or permitting the commission of certain offences

- (1) It is an offence for a person (P) to knowingly cause or permit another person under P's control to commit an offence (the "primary offence") under—
- (a) any provision of Parts 1 to 5 of this Act,
 - (b) section 108, or
 - (c) section 115. 20
- (2) A person who commits an offence under subsection (1) is liable to the same penalty as if the person had committed the primary offence.

122 Failure to exercise proper supervision or control

- (1) A person (A), other than an individual, is guilty of an offence where— 25
- (a) another person (B) commits a relevant offence while acting as the employee or agent of A, and
 - (b) the relevant offence would not have been committed but for the failure of an officer of A to exercise supervision or control over B's actions.
- (2) For the purposes of subsection (1), a relevant offence is— 30
- (a) an offence under any of the following provisions relating to a bird or other animal, or a plant (as the case may be) of a species within subsection (3)—
- (i) section 2,
 - (ii) section 7 35
 - (iii) section 12,
 - (iv) section 29,
 - (v) section 35,
 - (vi) section 54(1)(a), (b) or (c),
 - (vii) section 72, or 40
 - (viii) section 76(1)(a), (b) or (c);

- (b) an offence under any of the following provisions relating to a bird or other animal, or a plant (as the case may be) of a species within subsection (4) –
- (i) section 14,
 - (ii) section 16, 5
 - (iii) section 54(1)(d), (e) or (f),
 - (iv) section 56,
 - (v) section 76(1)(d), (e) or (f), or
 - (vi) section 78.
- (3) A species is within this subsection if it is a “protected wild fauna and flora species” within the meaning of Article 2(b)(i) of the Environmental Crime Directive. 10
- (4) A species is within this subsection if it is a “protected wild fauna and flora species” within the meaning of Article 2(b)(ii) of the Environmental Crime Directive. 15
- (5) The reference in subsection (1)(b) to “an officer” is a reference to –
- (a) in the case of a body corporate, a director, manager, secretary or similar officer of the body and, in the case of a body corporate whose affairs are managed by its members, a member of the body;
 - (b) in the case of a partnership, a partner; 20
 - (c) in the case of an unincorporated association, an officer of the association or a member of its governing body.
- (6) In proceedings for an offence under subsection (1), it is a defence for A to show that A took all reasonable steps and exercised all due diligence to avoid the commission of the offence. 25
- (7) In this section “Environmental Crime Directive” means Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law.
- (8) A person who commits an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both; 30
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (9) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (8)(a) to 12 months is to be read as a reference to 6 months. 35

Offences: supplementary

123 Offences: jurisdiction

For the purpose of conferring jurisdiction, an offence under this Act is to be deemed to have been committed in the place where the offender is found or to which the offender is first brought after the commission of the offence. 40

124 Wildlife offences: forfeiture

- (1) The court by which a person is convicted of a relevant offence –

- (a) may order the forfeiture of any bird, nest, egg, animal, plant or other thing in respect of which the offence was committed;
 - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence;
 - (c) in the case of an offence under section 96 or 97, may order the forfeiture of any animal or plant in the possession of the person which is of the same kind as that in respect of which the offence was committed. 5
- (2) For the purposes of subsection (1) a “relevant offence” is an offence under –
- (a) any provision of Part 1, 2 or 3 of this Act,
 - (b) section 93 (spreading of myxomatosis), 10
 - (c) section 96 or 97 (possessing, selling, importing and introducing non-native species),
 - (d) section 108 (use of leghold traps),
 - (e) section 111 (possessing pesticides harmful to wildlife),
 - (f) section 114 (possessing things capable of being used for committing an offence), or 15
 - (g) section 115 (possessing and selling things capable of being used to kill wild birds or animals).

125 Poaching offences: forfeiture

- (1) The court by or before which a person is convicted of any offence under section 102, 103 or 105 (poaching offences) may order the forfeiture of – 20
- (a) any game, any egg to which section 103 applies or any other thing to which section 105 applies that is –
 - (i) something in respect of which the offence was committed, or
 - (ii) something that was found in that person’s possession; 25
 - (b) any animal, weapon or other thing (other than a vehicle) that –
 - (i) was used to commit the offence, or
 - (ii) in the case of a person convicted of an offence under section 102, was capable of being used to commit an offence under section 102 and was found in that person’s possession. 30
- (2) The court by or before which a person is convicted of any offence under section 102 may order the forfeiture of any vehicle belonging to the offender or in the offender’s possession or control at the relevant time which has been used for the purpose of committing or facilitating the offence.
- (3) The court may make such an order whether or not it also deals with the offender in respect of the offence in any other way. 35
- (4) Facilitating the commission of the offence is to be taken for the purposes of subsection (2) to include the taking of any steps after it has been committed for the purpose of –
- (a) avoiding apprehension or detection; or 40
 - (b) removing from the land any person or property connected with the offence.
- (5) An order under subsection (2) deprives the offender of any rights in the vehicle, which must (if not already in their possession) be taken into the possession of the police. 45

- (6) Where a vehicle has been forfeited a magistrates' court may, on application from a claimant of the vehicle other than the offender, make an order for the delivery of the vehicle to the applicant if it appears to the court that the applicant is the owner of the vehicle.
- (7) No application may be made under subsection (6) by any person after the end of the period of 6 months from the date on which the forfeiture order was made. 5
- (8) An application may not succeed unless the court is satisfied that the applicant either –
- (a) had not consented to the offender having possession of the vehicle; or 10
 - (b) did not know and had no reason to suspect, that the vehicle was likely to be used for a purpose mentioned in subsection (2).
- (9) An order under subsection (6) does not affect the right of any person to take, within the period of 6 months from the date on which the order under subsection (5) was made, proceedings for the recovery of the vehicle from the person in possession of it in pursuance of the order; but at the end of that period the right to take such proceedings ceases. 15
- (10) The Secretary of State may make regulations for the disposal, and for the application of the proceeds of sale, of vehicles forfeited under subsection (2) where no application by a claimant under subsection (6) has been made within the period specified in subsection (7) or no such application has succeeded. 20
- (11) The regulations may also provide for the investment of money and the audit of accounts.
- (12) In this section “relevant time” in relation to a person convicted of an offence, means the time when the vehicle was used for the purpose of committing or facilitating the commission of the offence, or the time of the issue of a summons in respect of the offence. 25
- (13) In this section “game” has the same meaning as in section 107.
- 126 Cancellation of firearm or shotgun certificates held by persons convicted of poaching offences 30**
- (1) Where a person is convicted of an offence under section 102 or 105 the court may (without prejudice to its powers under section 125) cancel any firearm or shotgun certificate held by the offender.
- (2) If the court exercises that power –
- (a) the court must ensure that notice in writing of the cancellation is given to the chief officer of police by whom the certificate was granted; 35
 - (b) the chief officer of police must by notice in writing require the offender to surrender the certificate; and
 - (c) if the offender fails to surrender it within the period of 21 days beginning with the day on which that requirement was notified to the offender, the offender commits an offence. 40
- (3) A person guilty of an offence under subsection (2)(c) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Code of practice: damage and disturbance provisions

127 Code of practice: damage to protected breeding sites etc. and disturbance

- (1) In this section references to the “damage and disturbance provisions” are references to sections 9, 10, 11, 48, 49, 51 and 52.
- (2) The Secretary of State may issue or approve a code of practice giving practical guidance in respect of the application in England of any of the damage and disturbance provisions. 5
- (3) The Welsh Ministers may issue or approve a code of practice giving practical guidance in respect of the application in Wales of any of the damage and disturbance provisions. 10
- (4) The Secretary of State and the Welsh Ministers may –
 - (a) revoke a code issued by them;
 - (b) revise a code issued by them;
 - (c) withdraw the approval of a code;
 - (d) approve the revision of a code approved by them. 15
- (5) The Secretary of State and the Welsh Ministers must consult such persons as they consider appropriate before acting under subsections (2), (3) or (4).
- (6) The Secretary of State and the Welsh Ministers must ensure that a code issued or approved by them under this section is published in a way that is appropriate for bringing it to the attention of people likely to be affected by it. 20
- (7) A code issued or approved under this section must be laid before –
 - (a) Parliament, if issued or approved by the Secretary of State;
 - (b) the National Assembly for Wales, if issued or approved by the Welsh Ministers.
- (8) A person’s failure to comply with a provision of a code issued or approved under this section does not make the person liable to criminal or civil proceedings. 25
- (9) A code issued or approved under this section –
 - (a) is admissible in evidence in criminal or civil proceedings, and
 - (b) may be taken into account by a court in any case in which it appears to the court to be relevant. 30
- (10) Where the Secretary of State or Welsh Ministers revise or approve the revision of a code, subsections (6) to (9) apply to the revised code as they applied to the original.

Functions of local authorities 35

128 Functions of local authorities

- (1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of –
 - (a) the provisions of Parts 1, 2, 3 and 5 of this Act, and 40
 - (b) any regulations made under Part 1, 2, 3 or 5 of this Act affecting the whole or any part of its area.

- (2) A local authority may institute proceedings for any offence under, or under regulations made under, Part 1, 2, 3 or 5 of this Act which is committed within its area.

PART 7

ENFORCEMENT

5

Constables

129 Powers of entry, search etc.

- (1) If a constable has reasonable grounds for suspecting that a person is committing or has committed an offence under this Act, the constable may without warrant – 10
- (a) stop and search the person if the constable has reasonable grounds for suspecting that evidence of the commission of the offence is to be found on the person;
 - (b) search or examine any thing which the person is using or has in his or her possession if the constable has reasonable grounds for believing that evidence of the commission of the offence is to be found on that thing; 15
 - (c) seize and detain for the purposes of proceedings under this Act any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 124(1) or 125. 20
- (2) A constable may enter any premises, other than a dwelling, for the purpose of –
- (a) exercising the powers conferred by subsection (1),
 - (b) exercising the powers conferred by section 139(1), or
 - (c) arresting a person, in accordance with section 24 of the Police and Criminal Evidence Act 1984, for an offence under this Act. 25
- (3) A constable exercising the power under subsection (2) may –
- (a) be accompanied by another person, or
 - (b) bring equipment or materials,
- for the purpose of assisting the constable in the exercise of a power conferred by subsection (1)(b) or (c). 30

130 Powers in relation to samples

- (1) A constable who has reasonable grounds for suspecting that a specimen found in the exercise of powers conferred by section 129 is one in respect of which an offence under this Act is being or has been committed may require a sample to be taken from the specimen. 35
- (2) Subsection (3) applies where a constable has reasonable grounds for suspecting that an offence under this Act is being or has been committed in respect of a specimen (“the relevant specimen”).
- (3) The constable may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in the person’s possession or control which is alleged to be, or which the constable has 40

reasonable grounds for suspecting is, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

- (4) Where a sample from a live bird or animal is to be taken, any person who has possession or control of the bird or animal must give such assistance to the person taking the sample as that person may reasonably require. 5
- (5) This section is subject to section 141.

131 Offences in connection with enforcement powers

- (1) It is an offence to fail without reasonable excuse to make available a specimen in accordance with a requirement under section 130(3).
- (2) It is an offence to fail without reasonable excuse to give assistance that is reasonably required under section 130(4). 10
- (3) A person who commits an offence under this section is liable on summary conviction to a fine.

Wildlife inspectors

132 Authorisation 15

- (1) In this Part “wildlife inspector” means a person authorised in writing for the purposes of this Part by –
- (a) the Secretary of State, in relation to England;
 - (b) the Welsh Ministers, in relation to Wales.
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it. 20

133 Group 1 offences and licences: powers of entry and inspection

- (1) A wildlife inspector may, at any reasonable time, enter and inspect premises for the purpose of –
- (a) ascertaining whether a Group 1 offence is being or has been committed, 25
 - (b) verifying any statement or representation made, or document or information supplied, by an occupier of the premises in connection with an application for, or the holding of, a Group 1 licence, or
 - (c) ascertaining whether an offence under section 118 is being or has been committed by reason of a failure to comply with a condition specified in a Group 1 licence. 30
- (2) In this Part –
- (a) “Group 1 offence” means an offence under –
 - (i) section 2, 5 to 12, 18, 29, 30, 35 to 40, 41, 43, 46, 49, 48, 52, 51, 57, 60, 62, 72 to 74, 96, 108 or 115, or 35
 - (ii) section 54(1)(a) to (c) or section 76(1)(a) to (c) except where the possession, control or transport constituting the offence is for the purpose of sale;
 - (b) “Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence. 40
- (3) Subsection (1) does not confer power to enter a dwelling.

- (4) A wildlife inspector must, on request, produce evidence of his or her authority before entering premises under this section.
- (5) A wildlife inspector entering premises under this section may be accompanied by a veterinary surgeon if the wildlife inspector has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 134. 5

134 Group 1 offences and licences: examining specimens and taking samples

- (1) This section applies where a wildlife inspector has entered premises for a purpose mentioned in section 133(1).
- (2) The inspector, or a veterinary surgeon accompanying the inspector, may – 10
 - (a) for a purpose mentioned in section 133(1), examine any specimen, and
 - (b) subject to subsection (3) and section 141, take a sample from it.
- (3) No sample may be taken under subsection (2)(b) from a live bird, animal or plant except for the purpose of identifying its identity or ancestry.
- (4) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of – 15
 - (a) making an examination under subsection (2)(a), or
 - (b) taking a sample under subsection (2)(b).
- (5) The inspector may take and remove from the premises a specimen which is not a live bird, animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence. 20
- (6) This section is subject to section 141.

135 Group 2 offences and licences: powers of entry and inspection

- (1) A wildlife inspector may, at any reasonable time, enter and inspect premises –
 - (a) for the purpose of ascertaining whether an offence under section 14, 16, 54(1)(d) to (f), 56, 59, 76(1)(d) to (f), 78 or 79 is being, or has been, committed on those premises, 25
 - (b) for the purpose of ascertaining whether an offence under section 54(1)(a) to (c) or 76(1)(a) to (c) consisting in possession, control or transport for the purpose of sale is being, or has been, committed on those premises, 30
 - (c) where the wildlife inspector has reasonable grounds for believing that a bird of a species listed in Schedule 9 is kept, for the purpose of ascertaining whether an offence under section 17 is being, or has been, committed on those premises, 35
 - (d) for the purpose of ascertaining whether an offence under section 97 is being, or has been, committed on those premises,
 - (e) for the purpose of verifying any statement or representation made, or document or information supplied, by an occupier of the premises in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or 40
 - (f) ascertaining whether an offence under section 118 is being or has been committed by reason of a failure to comply with a condition specified in a Group 2 licence.

-
- (2) In this Part—
- (a) “Group 2 offence” means an offence under—
 - (i) section 14, 16, 17, 54(1)(d) to (f), 56, 59, 76(1)(d) to (f), 78, 79 or 97, or
 - (ii) section 54(1)(a) to (c) or section 76(1)(a) to (c) where the possession, control or transport constituting the offence is for the purpose of sale; 5
 - (b) “Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence;
 - (c) “relevant registration” means a registration in accordance with regulations made under section 17. 10
- (3) Paragraphs (a) and (c) of subsection (1) do not confer power to enter a dwelling except for purposes connected with—
- (a) a Group 2 licence or relevant registration held by the occupier of the dwelling, or 15
 - (b) an application by an occupier of the dwelling for a Group 2 licence or relevant registration.
- (4) Subsection (1)(d) does not confer any power to enter a dwelling.
- (5) A wildlife inspector must, on request, produce evidence of his or her authority before entering premises under this section. 20
- (6) A wildlife inspector entering premises under this section may be accompanied by a veterinary surgeon if the wildlife inspector has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 136.
- 136 Group 2 offences and licences: examining specimens and taking samples 25**
- (1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require the person who has the specimen in his or her possession or control to make it available for examination by the inspector or a veterinary surgeon.
 - (2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by the inspector in the exercise of powers conferred by section 135 in order to determine its identity or ancestry. 30
 - (3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence 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 any other specimen in the person’s possession or control which satisfies the condition in subsection (4). 35
 - (4) The condition is that the specimen is alleged to be, or the wildlife inspector has reasonable grounds suspect is, a specimen a sample of which will tend to establish the identity or ancestry of the relevant specimen. 40
 - (5) Where a bird or animal is to be examined, or a sample is to be taken from a bird or animal, a person who has possession or control of the bird or animal must give the person taking the sample such assistance as the person may reasonably require for that purpose. 45
 - (6) This section is subject to section 141.

137 Offences in connection with enforcement powers

- (1) It is an offence to intentionally obstruct a wildlife inspector acting in the exercise of powers conferred by –
- (a) section 133(1),
 - (b) section 134(2) or (5), 5
 - (c) section 135(1), or
 - (d) 136(2).
- (2) A person who fails, without reasonable excuse, to give any assistance that is reasonably required under section 134(4) or 136(5) commits an offence.
- (3) A person who fails, without reasonable excuse, to make available a specimen in accordance with a requirement under section 136(1) or (3) commits an offence. 10
- (4) A person who commits an offence under subsection (1), (2) or (3) is liable on summary conviction to a fine.
- (5) It is an offence for a person to make any statement or to otherwise act in a way that is calculated falsely to suggest that the person is a wildlife inspector. 15
- (6) A person who commits an offence under subsection (5) is liable –
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both. 20
- (7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.

138 Powers of entry and inspection: supplementary 25

- (1) Subsections (9) to (12) of section 237 of the Marine and Coastal Access Act 2009 (limitation on the exercise of enforcement powers in relation to certain vessels) apply in relation to the powers conferred on a wildlife inspector by sections 133 to 136 of this Act –
- (a) as they apply in relation to the powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation, and 30
 - (b) as if the reference to those powers in section 237(9) of the Marine and Coastal Access Act 2009 included a reference to the powers conferred on a wildlife inspector by sections 133 and 135 of this Act. 35
- (2) In subsection (1) “the nature conservation legislation” has the same meaning as in section 237 of the Marine and Coastal Access Act 2009.

*Poaching***139 Power to require person suspected of poaching offence to give name and address etc.** 40

- (1) This section applies where a constable or a person mentioned in subsection (5) (“A”) suspects on reasonable grounds that a person (“P”) found on any land is committing or has committed –

-
- (a) an offence under section 102 in relation to game of any kind; or
 - (b) an offence under section 103 in relation to an egg of a game bird or any other egg to which that section applies.
 - (2) A may require P –
 - (a) to give P’s full name and address, and 5
 - (b) to leave that land immediately.
 - (3) But the power to require P to leave the land does not apply where P is the owner or occupier of the land or is otherwise entitled to be on the land.
 - (4) If P fails or refuses to comply with a request by A under subsection (2), P commits an offence. 10
 - (5) Any of the following persons may exercise the powers conferred by subsection (1) –
 - (a) the owner or occupier of the land;
 - (b) any person (not being the owner or occupier of the land) who –
 - (i) in the case of an offence relating to game, has the right to kill or take game of the kind in question, or 15
 - (ii) in the case of an offence relating to an egg of a game bird, has the right to kill or take game birds of the kind in question on the land;
 - (iii) in the case of an offence relating to game, has the right to kill or take birds of the kind in question on the land; and 20
 - (c) any person authorised for the purposes of this section by a person mentioned in paragraph (a) or (b).
 - (6) In this section “game” and other expressions defined in section 107 have the same meaning as in that section. 25
- 140 Sale of seized poached game**
- (1) A justice of the peace may give a written direction that any game seized under section 129(1)(c) from a person suspected of an offence under section 102 or 105 may be sold.
 - (2) A person acting in pursuance of such a direction has power to sell the game in question (and accordingly is not liable to any penalty or action as a result). 30
 - (3) If the person from whom the game was seized is not convicted of an offence under section 102 or 105 the game, or its value, must be restored to that person.
 - (4) In this section “game” has the same meaning as in section 107.
- General* 35
- 141 Restrictions on taking samples from live specimens**
- (1) No sample may be taken by virtue of section 130, 134 or 136 from a live bird or animal except by a veterinary surgeon.
 - (2) No sample may be taken by virtue of section 130, 134 or 136 from a live bird, animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen. 40

142 Exceptions to sections 2, 29 and 30: exercise of enforcement powers etc.

- (1) A person does not commit an offence under section 2, 18, 29, 30 or 102 by reason of injuring a bird or other animal if—
- (a) the injury is caused solely for the purpose of—
 - (i) taking a sample from the bird or other animal in accordance with the provisions of section 130, 134 or 136, or 5
 - (ii) taking a sample from the bird or other animal to be used in evidence in any criminal proceedings for an offence under this Act; and
 - (b) the conditions in subsection (4) are satisfied. 10
- (2) A person does not commit an offence under section 72 or 73 by reason of picking or cutting a plant if the plant is picked or cut solely for the purpose of—
- (a) taking a sample from the plant—
 - (i) in accordance with the provisions of section 130, 134 or 136, or
 - (ii) to be used as evidence in any criminal proceedings for an offence under this Act; and 15
 - (b) the conditions in subsection (4) are satisfied.
- (3) A person does not commit an offence under section 12, 54(1)(a) to (c), 57, 76(1)(a) to (c) if—
- (a) the possession, control or transport is solely for the purposes of—
 - (i) investigating whether an offence under this Act is being or has been committed, 20
 - (ii) bringing, conducting or giving evidence in criminal proceedings in respect of an offence under this Act, or
 - (iii) giving effect to an order under section 124; and 25
 - (b) the conditions in subsection (4) are satisfied.
- (4) The conditions are—
- (a) that there is no satisfactory alternative to—
 - (i) causing the injury (for the purposes of subsection (1)),
 - (ii) picking or cutting the plant (for the purposes of subsection (2)), or 30
 - (iii) possessing, controlling or transporting the plant, bird or other animal (for the purposes of subsection (3)); and
 - (b) that the action is not detrimental to the maintenance of the population of the species of bird, other animal or plant (as the case may be) at a favourable conservation status in its natural range. 35
- (5) In proceedings for an offence under section 2, 12, 18, 29, 30, 72, 73, 54(1)(a) to (c), 57, 76(1)(a) to (c) or 102 it is for the defendant to show that the offence was not committed by reason of this section.
- (6) But where the defendant shows that the condition in paragraph (a) of subsection (1), (2) or (3) is satisfied, the conditions in subsection (4) are presumed to be satisfied, unless the prosecution proves otherwise. 40

143 Codes of practice

- (1) The Minister may issue a code of practice about—
- (a) the exercise of the powers under sections 133 to 136 by wildlife inspectors, and 45

- (b) the taking of samples in accordance with the provisions of this Part.
- (2) The Minister may revise or replace a code issued under this section.
- (3) A wildlife inspector or a constable must have regard to the code when exercising any power to which the code relates.
- (4) The failure of a wildlife inspector to have regard to a provision of a code does not of itself make the inspector liable to criminal or civil proceedings. 5
- (5) A code under this section is to be admissible in evidence.
- (6) If a code under this section appears to a court to be relevant to any question arising in proceedings it may be taken into account in determining that question. 10
- (7) In this section “Minister” means –
 - (a) the Secretary of State, in relation to England;
 - (b) the Welsh Ministers, in relation to Wales.

144 Power of conservation bodies to provide advice and assistance

- (1) The conservation bodies listed in subsection (2) may provide advice or assistance in connection with the enforcement of the provisions of this Act to – 15
 - (a) constables, and
 - (b) wildlife inspectors.
- (2) The conservation bodies are – 20
 - (a) Natural England;
 - (b) the Natural Resources Body for Wales.

145 Powers of marine enforcement officers

- (1) Section 237 of the Marine and Coastal Access Act 2009 (enforcement of nature conservation legislation by marine enforcement officers) is amended as follows. 25
- (2) In subsection (2) (meaning of “nature conservation legislation”) –
 - (a) omit paragraphs (a) and (b);
 - (b) in paragraph (i) for “regulations 41, 43, 45, 52, 57, 58 and 116(1) and (2)” substitute “regulations 52, 57 and 58”.
- (3) At the end of subsection (2) insert – 30
 - “(k) sections 2 to 20, 29 to 59, 60, 72 to 79, 96, 97 and 114 to 119 of the Wildlife Act 2015.”

Civil sanctions

146 Civil sanctions

- Schedule 34 (civil sanctions) has effect. 35

*Interpretation***147 Interpretation of Part 7**

- (1) In this Part, a reference to “premises” includes a reference to land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport. 5
- (2) In sections 130, 134 and 136 –
- (a) “sample” means a sample of blood, tissue or other biological material;
 - (b) “specimen” means –
 - (i) any bird, animal or plant, or
 - (ii) any part of, or anything derived from, a bird, animal or plant. 10

PART 8

SURVEILLANCE, MONITORING, ADVICE AND REVIEW

*Surveillance and monitoring***148 Surveillance of species of community interest**

- (1) The appropriate authority must (subject to sections 151 and 152) make arrangements for the surveillance of the conservation status of species of community interest (and in particular priority species) which are found in England and Wales. 15
- (2) The appropriate authority may revise the arrangements it makes under this section. 20
- (3) The appropriate authority must, from time to time, review the arrangements it makes under this section and, where appropriate, revise them.
- (4) The appropriate authority must ensure that the surveillance it considers necessary of the conservation status of each species of community interest is carried out through arrangements under this section. 25
- (5) Surveillance for the purposes of this section may be carried out by –
- (a) Natural England, the Natural Resources Body for Wales, or the Joint Nature Conservation Committee; or
 - (b) any person acting in pursuance of an agreement with the Secretary of State, Welsh Ministers or a body mentioned in paragraph (a). 30

149 Surveillance of other species of wildlife

- (1) The appropriate authority may (subject to section 151) –
- (a) determine that surveillance of the conservation status of any species of wild bird, animal or plant found in England and Wales (other than a species to which section 148 applies) should be carried out; and 35
 - (b) make arrangements for the surveillance it considers necessary of the conservation status of that species to be carried out.
- (2) The appropriate authority may revoke a determination under this section.

- (3) The appropriate authority may revise or terminate the arrangements (if any) it makes under this section.
- (4) The appropriate authority must, from time to time, review any determination and arrangements made under this section in relation to a species and, where appropriate, either revoke the determination (and terminate the arrangements) or revise the arrangements. 5
- (5) Surveillance for the purposes of this section may be carried out by –
 - (a) Natural England, the Natural Resources Body for Wales, or the Joint Nature Conservation Committee; or
 - (b) any person acting in pursuance of an agreement with the Secretary of State, Welsh Ministers or a body mentioned in paragraph (a). 10
- (6) In subsection (1) “wild bird” has the same meaning as in Part 1.

150 Monitoring of species listed in Annex IV(a) to Habitats Directive

- (1) The appropriate authority must (subject to sections 151 and 152) make arrangements for operating a system for monitoring the incidental capture, injury or killing of animals of the species listed in Annex IV(a) to the Habitats Directive. 15
- (2) The appropriate authority may revise the arrangements it makes under this section (whether or not that modifies the existing system or creates a new system). 20
- (3) The appropriate authority must, from time to time, review the arrangements it makes under this section and, where appropriate, revise them.
- (4) The appropriate authority must ensure that the monitoring it considers necessary of the incidental capture, injury or killing of animals of each species listed in Annex IV(a) to the Habitats Directive is carried out through arrangements made under this section. 25
- (5) Monitoring for the purposes of this section may be carried out by –
 - (a) Natural England, the Natural Resources Body for Wales, or the Joint Nature Conservation Committee;
 - (b) any Minister of the Crown (as defined in the Ministers of the Crown Act 1975) or government department, the Welsh Ministers, any statutory undertaker or any public body or person holding a public office; or 30
 - (c) any person (other than a person mentioned in paragraph (a) or (b)) who is acting in pursuance of and in accordance with –
 - (i) an agreement with the Secretary of State, Welsh Ministers or a body mentioned in paragraph (a), or 35
 - (ii) a condition of a licence or other authority granted by a person or body mentioned in paragraph (b).
- (6) In subsection (5) –
 - “public body” includes the Broads Authority and any local authority, joint board, joint committee or National Park authority; and 40
 - “public office” means –
 - (a) an office under the Crown,
 - (b) an office created or continued in existence by, or by subordinate legislation made under, a public general Act or an Act (or Measure) passed by the National Assembly for Wales; 45

- (c) an office the remuneration in respect of which is paid out of money provided by Parliament or the National Assembly for Wales.
- (7) In this section –
- “joint board” means a joint planning board within the meaning of section 2 of the Town and Country Planning Act 1990 (joint planning boards); 5
 - “joint committee” means a joint committee appointed under subsection (1)(b) of section 102 of the Local Government Act 1972 (appointment of committees);
 - “local authority” includes (in addition to the authorities referred to in the definition in section 162(1)) the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish council in England and a community council in Wales; and 10
 - “statutory undertaker” means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990 (statutory undertakers). 15

151 Surveillance and monitoring: role of the nature conservation bodies

- (1) Natural England (in relation to England) and the Natural Resources Body for Wales (in relation to Wales) must from time to time – 20
- (a) assess how and to what extent surveillance of the conservation status of each species of community interest should be carried out, having regard to –
 - (i) whether it is a priority species; and
 - (ii) the conservation status of the species; 25
 - (b) advise the appropriate authority as to what surveillance is required and how it should be carried out.
- (2) Natural England (in relation to England) and the Natural Resources Body for Wales (in relation to Wales) must from time to time, in relation to the species of animals listed in Annex IV(a) to the Habitats Directive – 30
- (a) identify the risks of incidental capture, injury and killing to which those species are subject within its area, and the activities which give rise to such risks;
 - (b) maintain a record of instances of incidental capture, injury or killing of animals of those species within its area which the body is aware as a result of the surveillance carried out under section 148, the monitoring carried out under section 150 or otherwise; 35
 - (c) assess to what extent monitoring of incidental capture, injury or killing of animals of each species listed in Annex IV(a) to the Habitats Directive is needed within its area, having regard to – 40
 - (i) the risks identified under paragraph (a),
 - (ii) the instances of incidental capture, injury or killing recorded under paragraph (b),
 - (iii) whether the species is a priority species; and
 - (iv) the conservation status of the species; 45
 - (d) advise the appropriate authority as to what monitoring is needed and how it should be carried out.

- (3) Natural England (in relation to England) and the Natural Resources Body for Wales (in relation to Wales) may advise the appropriate authority as to whether there is any need for surveillance of the conservation status of any species of wild bird, animal or plant found in England and Wales (other than a species to which section 148 applies). 5
- (4) Natural England (in relation to England) and the Natural Resources Body for Wales (in relation to Wales) must from time to time, in relation to any species of wild bird, animal or plant which is the subject of a determination under section 149 –
 - (a) assess how and to what extent surveillance of the conservation status of that species should be carried out; 10
 - (b) advise the appropriate authority as to what surveillance is required and how it should be carried out.
- (5) If the appropriate authority decides not to follow any advice given under this section (in whole or part) it must publish its reasons for doing so. 15

152 Consultation etc. with respect to arrangements under section 148 or 150

- (1) The Secretary of State must, from time to time –
 - (a) consult the Welsh Ministers, the Scottish Ministers and the Department of the Environment in Northern Ireland in respect of arrangements made or to be made for England under section 148 or 150; 20
 - (b) provide the Welsh Ministers, the Scottish Ministers and the Department of the Environment in Northern Ireland with –
 - (i) such information derived from the surveillance carried out under arrangements made for England under section 148, and
 - (ii) such information derived from the monitoring carried out under the arrangements made for England under section 150, 25as the Secretary of State considers appropriate.
- (2) The Welsh Ministers must, from time to time –
 - (a) consult the Secretary of State, the Scottish Ministers and the Department of the Environment in Northern Ireland in respect of the arrangements made or to be made for Wales under section 148 or 150; 30
 - (b) provide the Secretary of State, the Scottish Ministers and the Department of the Environment in Northern Ireland with –
 - (i) such information derived from the surveillance carried out under the arrangements made for Wales under section 148, and 35
 - (ii) such information derived from the monitoring carried out under the arrangements made for Wales under section 150, 35as the Welsh Ministers consider appropriate.

153 Protection of certain species from exploitation

- (1) The appropriate authority must, as required in the light of information derived from surveillance arranged under section 148 or otherwise arranged for the purpose of Article 11 of the Habitats Directive, take measures or ensure that measures are taken for the purpose specified in subsection (2). 40
- (2) That purpose is to ensure that the taking in the wild, and the exploitation, of specimens of a species listed in Annex V to the Habitats Directive are 45

compatible with the maintenance of that species at a favourable conservation status.

- (3) Where measures are required under this section, the appropriate authority must make arrangements for surveillance for the purpose of establishing whether the taking in the wild, and the exploitation, of specimens of the species concerned are compatible with the maintenance of that species at a favourable conservation status. 5

154 Protection of certain species from incidental capture, injury or killing

- (1) The appropriate authority must, as required in the light of information derived from monitoring arranged under section 150 or otherwise arranged for the purpose of Article 12(4) of the Habitats Directive – 10
- (a) make arrangements for further research for the purpose specified in subsection (2), or
 - (b) take conservation measures, or ensure that conservation measures are taken, for that purpose. 15
- (2) That purpose is to ensure that any incidental capture, injury or killing of animals of a species listed in Annex IV(a) to the Habitats Directive does not have a significant impact on the species concerned.

155 Sections 148 to 154: supplementary provisions

- In sections 148 to 155 – 20
- “the appropriate authority” means –
 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers;
 - “conservation status”, “species of community interest” and “priority species” have the meanings given by Article 1(i), (g) and (h) of the Habitats Directive; 25
 - “revise”, in relation to arrangements made under section 148, 149 or 150, includes altering or revoking any of those arrangements or making new arrangements;
 - “wild bird” has the same meaning as in Part 1. 30

Advisory bodies

156 England advisory bodies

- (1) The Secretary of State may – 35
- (a) establish bodies to be known as England advisory bodies, or
 - (b) designate bodies to be known as England advisory bodies.
- (2) An England advisory body established under subsection (1)(a) is to consist of such members as the Secretary of State may from time to time appoint.
- (3) Before appointing a member under subsection (2) the Secretary of State must consult such persons as the Secretary of State thinks fit.
- (4) The Secretary of State must as soon as practicable after the coming into force of this section – 40
- (a) establish at least one body under subsection (1)(a), or

- (b) designate at least one body under subsection (1)(b).
- (5) An England advisory body must provide the Secretary of State with advice on any relevant question which –
 - (a) the Secretary of State requests its advice on, or
 - (b) it considers it should offer its advice on. 5
- (6) “Relevant question” means a question which –
 - (a) relates to the administration of this Act in England, or
 - (b) otherwise relates to the protection of animals or plants in England.
- (7) An England advisory body may publish reports relating to the performance by it of its function under subsection (5). 10
- (8) The Secretary of State may defray or contribute towards the expenses of an English advisory body.

157 Wales advisory bodies

- (1) The Welsh Ministers may –
 - (a) establish bodies to be known as Wales advisory bodies, or 15
 - (b) designate bodies to be known as Wales advisory bodies.
- (2) A Wales advisory body established under subsection (1)(a) is to consist of such members as the Welsh Ministers may from time to time appoint.
- (3) Before appointing a member under subsection (2) the Welsh Ministers must consult such persons as they think fit. 20
- (4) The Welsh Ministers must as soon as practicable after the coming into force of this section –
 - (a) establish at least one body under subsection (1)(a), or
 - (b) designate at least one body under subsection (1)(b).
- (5) A Wales advisory body must provide the Welsh Ministers with advice on any relevant question which –
 - (a) the Welsh Ministers request its advice on, or
 - (b) it considers it should offer its advice on. 25
- (6) “Relevant question” means a question which –
 - (a) relates to the administration of this Act in Wales, or 30
 - (b) otherwise relates to the protection of animals or plants in Wales.
- (7) A Wales advisory body may publish reports relating to the performance by it of its function under subsection (5).
- (8) The Welsh Ministers may defray or contribute towards the expenses of a Wales advisory body. 35

Review and amendment of Schedules

158 Review of Schedules to this Act

- (1) The Joint Nature Conservation Committee –
 - (a) must review a relevant Schedule before the end of each review period in relation to that Schedule, and 40

- (b) may at any other time review a Schedule to this Act, other than Schedule 31 or 34.
- (2) For the purposes of subsection (1) a “relevant Schedule” is a Schedule to this Act, other than Schedule 3, 8, 9, 10, 23, 29, 30, 31, 33 or 34.
- (3) For the purposes of subsection (1)(a), each of the following is a review period in relation to a Schedule – 5
- (a) the period of 5 years, or such shorter period as may be specified in relation to the Schedule by regulations, beginning with the day on which this section comes into force, and
- (b) each successive period of 5 years. 10
- (4) Following a review of a Schedule under subsection (1)(a) or (b), the Joint Nature Conservation Committee must advise the Secretary of State or (as the case may be) the Welsh Ministers as to the relevant amendments, if any, that the Committee considers should be made to the Schedule.
- (5) Advice given under subsection (4) must be accompanied by a statement of the reasons for that advice. 15
- (6) If, following a review of a Schedule under subsection (1)(a) or (b), the Minister decides –
- (a) not to make a relevant amendment to the Schedule that the Joint Nature Conservation Committee has advised should be made, or 20
- (b) to make a relevant amendment to the Schedule that the Committee has not advised should be made,
- the Minister must make a statement giving reasons for that decision.
- (7) Advice given under this section, the statement accompanying that advice and any statement made under subsection (6) must be laid – 25
- (a) in the case of advice given to, or a statement made by, the Secretary of State, before each House of Parliament, and
- (b) in the case of advice given to, or a statement made by, the Welsh Ministers, before the National Assembly for Wales.
- (8) In this section – 30
- (a) a reference to a “relevant amendment” is a reference to an addition, removal or amendment of a kind listed in section 160(1);
- (b) a reference to the Joint Nature Conservation Committee is a reference to the GB conservation bodies, within the meaning of section 32(2) of the Natural Environment and Rural Communities Act 2006, acting through the Committee in accordance with Part 2 of that Act. 35
- (9) In this section and in sections 159 and 160 a reference to “the Minister” is a reference to –
- (a) the Secretary of State, in the case of regulations relating to England;
- (b) the Welsh Ministers, in the case of regulations relating to Wales. 40
- (10) In section 36(2) of the Natural Environment and Rural Communities Act 2006 (GB functions with respect to wildlife), after paragraph (b) insert –
- “(c) those under section 158 of the Wildlife Act 2015 (review of Schedules listing protected species etc.);”.

159 Advice on proposed amendments

- (1) In this section a reference to a “relevant amendment” is a reference to an addition, removal or amendment of a kind listed in section 160(1).
- (2) An England advisory body must, on the request of the Secretary of State, provide advice for the purposes of section 160(7)(a) on whether a proposed relevant amendment should be made to a Schedule. 5
- (3) A Wales advisory body must, on the request of the Welsh Ministers, provide advice for the purposes of section 160(7)(b) on whether a proposed relevant amendment should be made to a Schedule.
- (4) Advice given under subsection (2) or (3) must be accompanied by a statement of the reasons for that advice. 10
- (5) If the Minister decides to make a relevant amendment to a Schedule that the Minister has been advised under subsection (2) or (3) should not be made, the Minister must make a statement giving reasons for that decision.
- (6) Advice given under this section, the statement accompanying that advice and any statement made under subsection (5) must be laid – 15
 - (a) in the case of advice given to, or a statement made by, the Secretary of State, before each House of Parliament, and
 - (b) in the case of advice given to, or a statement made by, the Welsh Ministers, before the National Assembly for Wales. 20

160 Power to amend Schedules to this Act

- (1) Subject to subsections (2), (5) and (8), regulations may –
 - (a) add an entry to, or remove or amend an entry in a Schedule to this Act;
 - (b) add a relevant bird of a particular species or description to the list in Part 1 or 2 of Schedule 24. 25
- (2) Subsection (1)(a) does not apply in relation to Schedule 31 or 34.
- (3) In subsection (1)(b), “relevant bird” means a wild bird of a species other than –
 - (a) a protected species, or
 - (b) a species listed in Schedule 2 (protected game birds).
- (4) The power conferred by subsection (1) – 30
 - (a) may be exercised generally or with respect to particular provisions of this Act, and
 - (b) so far as the power relates to Part 1 of Schedule 13, Part 1 of Schedule 16 or Schedule 4, 15 or 21, may be exercised with respect to – 35
 - (i) particular areas of England and Wales,
 - (ii) particular times of day, or
 - (iii) particular times of year.
- (5) But regulations may be made under subsection (1) only if Condition 1 or 2 is satisfied.
- (6) Condition 1 is that a review of the Schedule has first been carried out in accordance with section 158. 40
- (7) Condition 2 is that –

- (a) in the case of regulations relating to England, the Secretary of State has sought the advice of an England advisory body on the proposed addition, removal or amendment;
- (b) in the case of regulations relating to Wales, the Welsh Ministers have sought the advice of a Wales advisory body on the proposed addition, removal or amendment. 5
- (8) Regulations removing an entry from Schedule 13 or 28 may only be made—
- (a) if in the opinion of the Minister the animal or plant in question is not endangered and is unlikely to become endangered;
- (b) if in the opinion of the Minister the entry is unnecessary for the protection of the animal or plant in question by reason of an entry added (or proposed to be added at the same time as the removal) to any other Schedule; 10
- (c) for the purpose of complying with an international obligation.

PART 9 15

GENERAL

Interpretation

161 Offences: supplementary

- (1) For the purposes of this section “listed offence” means an offence under a provision listed in column 1 of the following table and “the relevant condition”, in relation to a listed offence, is the condition in column 2 relating to that offence. 20

<i>Offence-creating provision</i>	<i>The relevant condition</i>	
section 2(1)	section 2(2)(b)	25
section 5(1)	section 5(3)(b)	
section 7(3)	section 7(4)(b)	
section 8(2)	section 8(3)(b)	
section 9(2)	section 9(3)(b)	
section 10(1)	section 10(2)(b)	30
section 11(1)	section 11(2)(b)	
section 29(1)	section 29(2)(b)	
section 34(3)	section 34(4)(b)	
section 36(1)	section 36(3)(b)	
section 38(1)	section 38(4)(b)	35
section 39(1)	section 39(4)(b)	

<i>Offence-creating provision</i>	<i>The relevant condition</i>	
section 40(1)	section 40(4)(b)	
section 41(1)	section 41(2)(b)	
section 49(2)	section 49(3)(b)	5
section 51(1)	section 51(2)(b)	
section 52(1)	section 52(3)(b)	
section 60(2)	section 60(3)(b)	
section 62(7)	section 62(8)(b)	
section 72(1)	section 72(2)(b).	10

- (2) In this section and the provisions of this Act relating to the listed offences, references to actions include references to omissions.
- (3) Subsection (4) applies in proceedings against a person (“P”) for a listed offence alleged to have been committed by virtue of the relevant condition having been satisfied. 15
- (4) In determining whether P failed to take steps that were reasonable in the circumstances known to P to prevent the result mentioned in the relevant condition, the court may take into account a provision of a document falling within subsection (5) if—
- (a) the document applied to P (or to a person responsible for P’s actions); and
 - (b) the court considers the provision to be relevant to that determination. 20
- (5) A document falls within this subsection if it is guidance, a permit or a direction (however described) issued in the exercise of a function to which the regulation 9 duty applies by an authority or body subject to that duty. 25
- (6) In subsection (5) “the regulation 9 duty” means the duty under regulation 9 of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490) (duty to exercise functions relevant to nature conservation, including marine conservation, so as to secure compliance with the Habitats Directive and the Wild Birds Directive). 30

162 Interpretation: general

- (1) In this Act—
- “favourable conservation status” has the meaning given by paragraph (i) of Article 1 of the Habitats Directive;
 - “firearm” has the meaning given by section 57(1) of the Firearms Act 1968;
 - “Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
 - “local authority” means—
 - (a) in relation to England, a county, district or London borough council; 40

- (b) in relation to Wales, a county council or a county borough council;
- “London borough council” includes the Common Council of the City of London;
- “sell” includes hire and exchange (and “sale” and “buy” are to be construed accordingly); 5
- “species” includes sub-species;
- “Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the Conservation of Wild Birds. 10
- (2) For the purposes of this Act, a deer is a “protected deer” unless it is—
- (a) kept by a person, by way of business, on land enclosed by a deer-proof barrier—
- (i) for the production of meat or other foodstuffs, skins or other by-products, or 15
- (ii) as breeding stock, and
- (b) conspicuously marked in such a way as to identify it as a deer kept by that person as mentioned in paragraph (a).
- (3) In this Act a reference to “European territory” does not include a reference to territory to which the Treaty on the Functioning of the European Union does not apply. 20
- (4) Where a reference in this Act to a species includes a reference to both the common name and the scientific name of the species, the common name is to be regarded as providing guidance only; and in the event of any dispute or proceedings the common name is not to be taken into account. 25

General provision about offences

163 Offences by bodies corporate etc.

- (1) If an offence committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of the officer, 30
- the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer”, in relation to the body corporate, means—
- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in such a capacity. 35
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with that management as if the member were a director of the body corporate.
- (4) If an offence committed by a partnership is proved—
- (a) to have been committed with the consent or connivance of a partner, or a person purporting to act as a partner, or 40
- (b) to be attributable to any neglect on the part of such a person,
- the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

- (5) If an offence committed by an unincorporated association (other than a partnership) is proved –
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
 - (b) to be attributable to any neglect on the part of such an officer or member,
- the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly. 5
- (6) In this section and section 164 “offence” means an offence under any provision of this Act. 10

164 Offences committed by partnerships and other unincorporated associations

- (1) Proceedings for an offence alleged to have been committed by a partnership are to be brought in the name of the partnership and not in that of the partners; but without prejudice to any liability of the partners under section 163(4).
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association (other than a partnership) are to be brought in the name of the association and not in that of the members; but without prejudice to any liability of the members under section 163(5). 15
- (3) Rules of court relating to the service of documents are to have effect as if the partnership or unincorporated association were a body corporate. 20
- (4) In proceedings for an offence brought against a partnership or an unincorporated association, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980 apply as they apply in relation to a body corporate.
- (5) A fine imposed on a partnership on its conviction for an offence is to be paid out of the partnership assets. 25
- (6) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.

Repeal of existing legislation

165 Power to repeal existing legislation or to make transitional and consequential etc. provision 30

- (1) The Secretary of State may by regulations –
- (a) repeal or revoke any wildlife provision;
 - (b) make incidental, supplementary or consequential provision in connection with any provision of this Act; 35
 - (c) make transitional or transitory provision or savings in connection with the coming into force of any provision of this Act.
- (2) Regulations under subsection (1)(b) or (c) may amend, repeal, revoke or otherwise modify any enactment (including any enactment passed or made in the same Session as this Act). 40
- (3) A statutory instrument containing regulations under subsection (1) –
- (a) if it includes provision which amends, repeals or modifies an enactment contained in an Act of Parliament, may not be made unless

- a draft of the instrument has been laid before and approved by a resolution of each House of Parliament;
- (b) in any other case, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section “wildlife provision” means any provision of, or any provision of an instrument made under – 5
- (a) the Conservation of Seals Act 1970;
- (b) Part 1 of the Wildlife and Countryside Act 1981;
- (c) the Deer Act 1991;
- (d) the Protection of Badgers Act 1992; 10
- (e) Part 4 or Part 7 of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490); or
- (f) an enactment relating to game.

Regulations

- 166 Regulations** 15
- (1) In this Act (except sections 111 and 165) “regulations” means regulations made by the Secretary of State (in relation to England) or by the Welsh Ministers (in relation to Wales).
- (2) Regulations under this Act are to be made by statutory instrument.
- (3) Before making regulations under this Act – 20
- (a) the Secretary of State must seek the advice of an England advisory body on whether the regulations should be made;
- (b) the Welsh Ministers must seek the advice of a Wales advisory body on whether the regulations should be made.
- (4) Subsection (3) does not apply to regulations under sections 111, 117, 158, 160 or 170 or Schedules 31 or 34. 25
- (5) Before making regulations under this Act, the Secretary of State or (as the case may be) the Welsh Ministers must consult –
- (a) each local authority which, in their opinion, would be affected by the regulations, and 30
- (b) any other person who, in their opinion, would be affected by or have an interest in the regulations.
- (6) Subsection (5) does not apply to regulations under sections 21(1)(b)(iii), 111, 117, 158 or 170 or Schedules 31 or 34.
- (7) Paragraph (b) of subsection (5) does not apply to regulations under section 18. 35
- (8) Before making regulations under this Act the Secretary of State or the Welsh Ministers may cause a public inquiry to be held.
- (9) A statutory instrument containing regulations under this Act is (with the exceptions mentioned in subsections (10) and (11)) subject to annulment in pursuance of a resolution of – 40
- (a) either House of Parliament, in the case of regulations made by the Secretary of State;

- (b) the National Assembly for Wales, in the case of regulations made by the Welsh Ministers.
- (10) A statutory instrument containing regulations under section 107(5) must not be made unless a draft of the instrument has been laid before and approved by each House of Parliament. 5
- (11) Subsection (9) does not apply to a statutory instrument only containing regulations under section 18, 21(1)(b)(iii) or 170.
- (12) Regulations under this Act may –
- (a) make different provision for different purposes, circumstances or cases;
 - (b) contain incidental, consequential, transitional or supplementary provision. 10

Final provisions

167 Crown application

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of any provision of this Act makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention. 15
- (3) This Act applies to persons in the public service of the Crown as it applies to other persons. 20
- (4) Nothing in this Act affects Her Majesty in her private capacity.
- (5) Subsection (4) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (references to Her Majesty in her private capacity) were contained in this Act.

168 Territorial sea 25

This Act –

- (a) has effect in relation to the territorial sea adjacent to England as it has effect in relation to England, and
- (b) has effect in relation to the territorial sea adjacent to Wales as it has effect in relation to Wales. 30

169 Extent

- (1) This Act extends to England and Wales only, subject to subsection (2).
- (2) Section 158 and this section also extend to Scotland.

170 Commencement

- (1) This section comes into force on the day on which this Act is passed. 35
- (2) The other provisions of this Act come into force on such day or days as the Secretary of State may by regulations appoint.
- (3) Regulations under this section may –

- (a) appoint different days for different purposes, and
- (b) include transitional or saving provision relating to the provisions being brought into force.

171 Short title

This Act may be cited as the Wildlife Act 2015.

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SCHEDULES

SCHEDULE 1

Section 1

PROTECTED SPECIES, OTHER THAN SPECIES WITHIN SECTION 1(2)(a)

<i>Common name</i>	<i>Scientific name</i>	
Common pheasant	Phasianus colchicus	5
Canada goose	Branta Canadensis	

SCHEDULE 2

Section 2

PROTECTED GAME BIRDS

<i>Common name</i>	<i>Scientific name</i>	
Pheasant	[Insert scientific names]	10
Partridge		
Red grouse (or moor game)		
Black grouse (or black game or heath game)		
Ptarmigan		15

SCHEDULE 3

Section 4

BIRDS SUBJECT TO SPECIAL PROTECTION

<i>Common name</i>	<i>Scientific name</i>	
Avocet	Recurvirostra avosetta	
Bee-eater	Merops apiaster	20
Bittern	Botaurus stellaris	
Bittern, Little	Ixobrychus minutus	

<i>Common name</i>	<i>Scientific name</i>	
Bluethroat	Luscinia svecica	
Brambling	Fringilla montifringilla	
Bunting, Cirl	Emberiza cirlus	
Bunting, Lapland	Calcarius lapponicus	5
Bunting, Snow	Plectrophenax nivalis	
Buzzard, Honey	Pernis apivorus	
Chough	Pyrrhocorax pyrrhocorax	
Corncrake	Crex crex	
Crake, Spotted	Porzana porsana	10
Crossbills (all species)	Loxia	
Curlew, Stone	Burhinus oediconemus	
Divers (all species)	Gavia	
Dotterel	Charadrius morinellus	
Duck, Long-tailed	Clangula hyemalis	15
Eagle, Golden	Aquila chrysaetos	
Eagle, White-tailed	Haliaeetus albicilla	
Falcon, Gyr	Falco rusticolus	
Fieldfare	Turdus pilaris	
Firecrest	Regulus ignicapillus	20
Garganey	Anas querquedula	
Godwit, Black-tailed	Limosa limosa	
Goshawk	Accipiter gentilis	
Grebe, Black-necked	Podiceps nigricollis	
Grebe, Slavonian	Podiceps aurilus	25
Greenshank	Tringa nebularia	
Gull, Little	Larus Minutus	
Gull, Mediterranean	Larus melanocephalus	
Harriers (all species)	Circus	
Heron, Purple	Ardea purpurea	30
Hobby	Falco subbuteo	

<i>Common name</i>	<i>Scientific name</i>	
Hoopoe	<i>Upupa epops</i>	
Kingfisher	<i>Alcedo atthis</i>	
Kite, Red	<i>Milvus milvus</i>	
Merlin	<i>Falco columbarius</i>	5
Oriole, Golden	<i>Oriolus oriolus</i>	
Osprey	<i>Pandion haliaetus</i>	
Owl, Barn	<i>Tyto alba</i>	
Owl, Snowy	<i>Nyctea scandiaca</i>	
Peregrine	<i>Falco peregrinus</i>	10
Petrel, Leach's	<i>Oceanodroma leucorhoa</i>	
Phalarope, Red-necked	<i>Phalaropus lobatus</i>	
Plover, Kentish	<i>Charadrius alexandrinus</i>	
Plover, Little Ringed	<i>Charadrius dubius</i>	
Quail, Common	<i>Coturnix coturnix</i>	15
Redstart, Black	<i>Phoenicurus ochruros</i>	
Redwing	<i>Turdus iliacus</i>	
Rosefinch, Scarlet	<i>Carpodacus erythrinus</i>	
Ruff	<i>Philomachus pugnax</i>	
Sandpiper, Green	<i>Tringa ochropus</i>	20
Sandpiper, Purple	<i>Calidris maritima</i>	
Sandpiper, Wood	<i>Tringa glareola</i>	
Scaup	<i>Aythya marila</i>	
Scoter, Common	<i>Melanitta nigra</i>	
Scoter, Velvet	<i>Melanitta fusca</i>	25
Serin	<i>Serinus serinus</i>	
Shorelark	<i>Eremophila alpestris</i>	
Shrike, Red-backed	<i>Lanius collurio</i>	
Spoonbill	<i>Platalea leucorodia</i>	
Stilt, Black-winged	<i>Himantopus himantopus</i>	30
Stint, Temminck's	<i>Calidris temminckii</i>	

<i>Common name</i>	<i>Scientific name</i>	
Swan, Bewick's	<i>Cygnus bewickii</i>	
Swan, Whooper	<i>Cygnus cygnus</i>	
Tern, Black	<i>Chlidonias niger</i>	
Tern, Little	<i>Sterna albifrons</i>	5
Tern, Roseate	<i>Sterna dougallii</i>	
Tit, Bearded	<i>Panurus biarmicus</i>	
Tit, Crested	<i>Parus cristatus</i>	
Treecreeper, Short-toed	<i>Certhia brachydactyla</i>	
Warbler, Cetti's	<i>Cettia cetti</i>	10
Warbler, Dartford	<i>Sylvia undata</i>	
Warbler, Marsh	<i>Acrocephalus palustris</i>	
Warbler, Savi's	<i>Locustella luscinioides</i>	
Whimbrel	<i>Numenius phaeopus</i>	
Woodlark	<i>Lullula arborea</i>	15
Wryneck	<i>Jynx torquilla</i>	
Goldeneye	<i>Bucephala clangula</i>	
Pin tail	<i>Anas acuta</i>	

SCHEDULE 4

Section 5

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: BIRDS	20
Anaesthetic or stupefying substances.	
Artificial lighting, mirrors or other dazzling devices.	
Automatic or semi-automatic weapons.	
Baited boards.	
Bird lime and any similar substance.	25
Bows and crossbows.	
Chemical wetting agents.	
Devices for illuminating a target or other sighting devices for night shooting.	
Electrical devices that are capable of killing or stunning a bird.	30
Explosives.	
Gassing or smoking out.	
Hooks.	
Nets.	

- Poison.
- Shot guns of which the barrel has an internal diameter at the muzzle of more than 4.45 centimetres (1.75 inches).
- Snares.
- Traps. 5
- Using as a decoy a live bird or other animal which is tethered, or secured by means of braces or similar appliances, or which is blind, maimed or injured.
- Using a sound recording as a decoy.

SCHEDULE 5

Section 8 10

BIRDS THAT RE-USE THEIR NESTS

<i>Common name</i>	<i>Scientific name</i>	
Eagle, Golden	<i>Aquila chrysaetos</i>	
Eagle, White-tailed	<i>Haliaetus albicilla</i>	
Osprey	<i>Pandon haliaetus</i>	15

SCHEDULE 6

Section 9

BIRDS WITH PROTECTED BREEDING SITES AND RESTING PLACES

- Insert list of species of bird that –*
- (a) *are listed in Appendix 2 of the Bern Convention, and*
 - (b) *have a natural range including an area in Great Britain.* 20

SCHEDULE 7

Section 10

BIRDS PROTECTED AGAINST DISTURBANCE

<i>Common name</i>	<i>Scientific name</i>	
Eagle, White-tailed	Haliaeetus albicilla	
Balearic shearwater	Puffinus mauretanicus	5

SCHEDULE 8

Section 14

BIRDS WHICH MAY BE SOLD ETC. IN CERTAIN CIRCUMSTANCES

<i>Common name</i>	<i>Scientific name</i>	
Mallard duck	Anas platyrhynchos	
	Lagopus lagopus lagopus, scoticus et hibernicus	10
	Alectoris rufa	
	Alectoris barbara	
	Perdix perdix	
Common pheasant	Phasianus colchicus	15
Common wood pigeon	Columba palumbus	

SCHEDULE 9

Section 17

BIRDS WHICH MUST BE REGISTERED AND RINGED IF KEPT IN CAPTIVITY

<i>Common name</i>	<i>Scientific name</i>	
Buzzard, Honey	Pernis apivorus	20
Eagle, Golden	Aquila chrysaetos	
Eagle, White-tailed	Haliaeetus albicilla	
Falcon, Peregrine	Falco peregrinus	
Goshawk	Accipiter gentilis	
Harrier, Marsh	Circus aeruginosus	25
Harrier, Montagu's	Circus pygargus	

<i>Common name</i>	<i>Scientific name</i>
Merlin	Falco columbarius
Osprey	Pandion haliaetus

SCHEDULE 10

Section 20

BIRDS WHICH MAY BE SHOWN AT COMPETITION IN CERTAIN CIRCUMSTANCES 5

<i>Common name</i>	<i>Scientific name</i>	
Blackbird	Turdus merula	
Brambling	Fringilla montifringilla	
Bullfinch	Pyrrhula pyrrhula	
Bunting, Reed	Emberiza schoeniclus	10
Chaffinch	Fringilla coelebs	
Dunnock	Prunella modularis	
Goldfinch	Carduelis carduelis	
Greenfinch	Carduelis chloris	
Jackdaw	Corvus monedula	15
Jay	Garrulus glandarius	
Linnet	Carduelis cannabina	
Magpie	Pica pica	
Owl, Barn	Tyto alba	
Redpoll	Carduelis flammea	20
Siskin	Carduelis spinus	
Starling	Sturnus vulgaris	
Thrush, Song	Trudus philomelos	
Twite	Carduelis flavirostris	
Yellowhammer	Emberiza citrinella	25

SCHEDULE 11

Section 21

BIRDS WHICH MAY BE HUNTED OUTSIDE THE CLOSE SEASON ETC.

<i>Common name</i>	<i>Scientific name</i>	<i>Close season</i>	<i>Other prohibited days</i>
Black game (or heath game)		Either –	(a) Sundays; 5
		(a) 11 December to the following 31 August inclusive, in the case of birds in the county of Somerset or Devon or in the New forest in the county of Southampton, or	(b) Christmas Day. 10
		(b) 11 December to the following 19 August inclusive, in any other case	15
Capercaillie	Tetrao urogallus	1 February to 30 September inclusive	20
Coot	Fulica atra	1 February to 31 August inclusive	
Duck, Tufted	Aythya fuligula	Either –	
		(a) 21 February to 31 August inclusive, in the case of wild birds in or over any area below high-water mark of ordinary spring tides, or	25
		(b) 1 February to 31 August inclusive, in any other case	30
Gadwall	Anas strepera	1 February to 31 August inclusive	35
Goldeneye	Bucephala clangula	1 February to 31 August inclusive	

<i>Common name</i>	<i>Scientific name</i>	<i>Close season</i>	<i>Other prohibited days</i>
Goose, Canada	Branta canadensis	Either—	
		(a) 21 February to 31 August inclusive, in the case of wild birds in or over any area below high-water mark of ordinary spring tides, or	5 10
Goose, Greylag	Anser anser	Either—	
		(a) 21 February to 31 August inclusive, in the case of wild birds in or over any area below high-water mark of ordinary spring tides, or	15 20
Goose, Pink-footed	Anser brachyrhynchus	Either—	
		(a) 21 February to 31 August inclusive, in the case of wild birds in or over any area below high-water mark of ordinary spring tides, or	30 35
Goose, White-fronted	Anser albifrons	Either—	
		(a) 21 February to 31 August inclusive, in the case of wild birds in or over any area below high-water mark of ordinary spring tides, or	40 45
		(b) 1 February to 31 August inclusive, in any other case	

<i>Common name</i>	<i>Scientific name</i>	<i>Close season</i>	<i>Other prohibited days</i>	
Grouse (or moor game)		11 December to the following 11 August inclusive	(a) Sundays; (b) Christmas Day.	
Mallard	<i>Anas platyrhynchos</i>	1 February to 31 August inclusive		5
Moorhen	<i>Gallinula chloropus</i>	1 February to 31 August inclusive		
Partridge		2 February to 31 August inclusive	(a) Sundays; (b) Christmas Day.	10
Pheasant		2 February to 30 September inclusive	(a) Sundays; (b) Christmas Day.	
Pintail	<i>Anas acuta</i>	1 February to 31 August inclusive		
Plover, Golden	<i>Pluvialis apricaria</i>	1 February to 31 August inclusive		15
Pochard	<i>Aythya ferina</i>	1 February to 31 August inclusive		
Shoveler	<i>Anas clypeata</i>	1 February to 31 August inclusive		20
Snipe, Common	<i>Gallinago gallinago</i>	1 February to 11 August inclusive		
Teal	<i>Anas crecca</i>	1 February to 31 August inclusive		
Wigeon	<i>Anas penelope</i>	1 February to 31 August inclusive		25
Woodcock	<i>Scolopax rusticola</i>	1 February to 30 September inclusive		

SCHEDULE 12

Section 29

WILD ANIMALS: EUROPEAN PROTECTED SPECIES ETC.

30

PART 1

PROTECTED SPECIES

Insert list of species that –(a) *are listed in –*

- (i) *Appendix 2 of the Bern Convention, or*
- (ii) *Annex 4(a) of the Habitats Directive; and*

35

(b) *have a natural range including an area in Great Britain.*

PART 2

ADDITIONAL SPECIES PROTECTED BY SECTION 29

<i>Common name</i>	<i>Scientific name</i>	
Basking shark	Cetorhinus maximus	5
Badger	Meles meles	

SCHEDULE 13

Section 30

WILD ANIMALS: SPECIES PROTECTED IN ENGLAND AND WALES

PART 1

PROTECTED SPECIES

10

Insert list of species that are currently listed in Schedule 5 to the Wildlife and Countryside Act 1981, excluding species listed in Part 1 of Schedule 12.

PART 2

ADDITIONAL SPECIES PROTECTED BY SECTION 49

<i>Common name</i>	<i>Scientific name</i>	
Badger	Meles meles	15

SCHEDULE 14

Section 36

PROTECTED ANIMALS

PART 1

MAMMALS

20

Insert list of species of mammal (excluding deer, stoats (Mustela erminea) and weasels (Mustela nivalis)) that –

(a) *are listed in –*

(i) *Appendix 2 or 3 of the Bern Convention, or*

(ii) *Annex 4(a) or 5(a) of the Habitats Directive; and*

25

(b) *have a natural range including an area in Great Britain.*

PART 2

FISH

Insert list of species of fish that –

- | | | |
|--|--|---|
| (a) are listed in – | | |
| (i) Appendix 2 or 3 of the Bern Convention, or | | 5 |
| (ii) Annex 4(a) or 5(a) of the Habitats Directive; and | | |
| (b) have a natural range including an area in Great Britain. | | |

PART 3

OTHER ANIMALS

<i>Insert list of species of animals (excluding birds) other than those listed in Part 1, 2 or 3, that –</i>	10
--	----

- | | | |
|--|--|----|
| (a) are listed in – | | |
| (i) Appendix 2 or 3 of the Bern Convention, or | | |
| (ii) Annex 4(a) or 5(a) of the Habitats Directive; and | | |
| (b) have a natural range including an area in Great Britain. | | 15 |

SCHEDULE 15

Section 36

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: PROTECTED ANIMALS

PART 1

GENERAL

- | | |
|--|----|
| Bows and crossbows. | 20 |
| Explosives. | |
| Poison. | |
| Snares. | |
| Spring traps. | |
| Using a live mammal or bird, or any other live animal which is blind or mutilated, as a decoy. | 25 |

PART 2

PARTICULAR TYPES OF ANIMAL

<i>Type of animal</i>	<i>Regulated devices, substances and activities</i>	
Mammals	(a) Anaesthetic or stupefying substances.	5
	(b) Artificial lighting, mirrors or other dazzling devices.	
	(c) Automatic or semi-automatic weapons.	10
	(d) Devices for illuminating a target or other sighting devices for night shooting.	
	(e) Electrical devices that are capable of killing or stunning an animal.	15
	(f) Gassing or smoking out.	
	(g) Nets or traps.	
	(h) Using a sound recording as a decoy.	20
Fish	(a) Anaesthetic or stupefying substances.	
	(b) Artificial lighting.	
	(c) Electricity with alternating current.	25
	(d) Firearms.	

SCHEDULE 16

Section 37

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: OTHER WILD ANIMALS

PART 1

LIST OF DEVICES ETC. 30

- Bows and crossbows.
- Explosives.
- Poison.
- Regulated snares.
- Spring traps. 35
- Using a live mammal or bird as a decoy.

PART 2

MEANING OF “REGULATED SNARE”

- | | | |
|---|--|----|
| 1 | For the purposes of this Schedule and Schedule 18, a snare is a “regulated snare” unless it satisfies the conditions in paragraph 2. | |
| 2 | The conditions are that the snare – | 5 |
| | (a) is not a self-locking snare, | |
| | (b) is inspected at least once in every 24 hour period that it is in use, | |
| | (c) complies with such requirements as to its features or condition that may be prescribed by regulations, and | |
| | (d) is operated in accordance with, and by a person who satisfies, such requirements as may be prescribed by regulations. | 10 |

SCHEDULE 17

Section 38

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: STOATS

- | | |
|---|----|
| Anaesthetic or stupefying substances. | |
| Bows and crossbows. | 15 |
| Explosives. | |
| Poison. | |
| Snares. | |
| Traps. | |
| Using a live mammal or bird, or any other animal which is blind or mutilated, as a decoy. | 20 |

SCHEDULE 18

Section 39

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: WEASELS

- | | |
|---|----|
| Anaesthetic or stupefying substances. | |
| Bows and crossbows. | 25 |
| Explosives. | |
| Poison. | |
| Regulated snares (as defined in Part 2 of Schedule 16). | |
| Spring traps. | |
| Using a live mammal or bird, or any other animal which is blind or mutilated, as a decoy. | 30 |

SCHEDULE 19

Section 40

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: PROTECTED DEER

- | | |
|---------------------------------------|----|
| Anaesthetic or stupefying substances. | |
| Artificial lighting. | 35 |

Automatic weapons.	
Bows and crossbows.	
Explosives.	
Gassing or smoking out.	
Nets or traps.	5
Poison.	
Snares.	
Using a live mammal or bird, or any other animal which is blind or mutilated, as a decoy.	

SCHEDULE 20 Section 41 10

REGULATED DEVICES, SUBSTANCES AND ACTIVITIES: PROTECTED DEER

Devices for illuminating a target.	
Electrical devices that are capable of killing or stunning an animal.	
Mirrors or other dazzling devices.	
Semi-automatic weapons with a magazine capable of holding more than two rounds of ammunition.	15
Using a sound recording as a decoy.	

SCHEDULE 21 Section 43

REGULATED DEVICES: ADDITIONAL PROTECTION FOR CERTAIN SPECIES

PART 1 20

DEVICES THAT ARE NOT SUBJECT TO THE LICENSING PROVISIONS

<i>Common name</i>	<i>Scientific name</i>	<i>Regulated devices, substances and activities</i>	
Badger	Meles meles	(a) Badger tongs.	
		(b) A firearm, other than—	
		(i) a smooth bore weapon of not less than 20 bore, or	25
		(ii) a rifle using ammunition having a muzzle energy of not less than 217 joules (160 footpounds) and a bullet weighing not less than 2.46 grams (38 grains).	30

PART 2

DEVICES THAT MAY BE USED IN ACCORDANCE WITH A LICENCE

<i>Common name</i>	<i>Scientific name</i>	<i>Regulated devices, substances and activities</i>	
Common seal	<i>Phoca vitulina</i>	A firearm, other than a rifle using ammunition having a muzzle energy of not less than 813 joules (600 footpounds) and a bullet weighing not less than 2.92 grams (45 grains).	5
Grey seal	<i>Halichoerus grypus</i>	A firearm, other than a rifle using ammunition having a muzzle energy of not less than 813 joules (600 footpounds) and a bullet weighing not less than 2.92 grams (45 grains).	10

PART 3

DEVICES THAT MAY BE USED IN ACCORDANCE WITH A LICENCE: PROTECTED DEER 15

- 1 A firearm of any of the following kinds –
 - (a) a smooth-bore gun;
 - (b) a rifle having a calibre of less than 0.61 centimetres (0.240 inches) or a muzzle energy of less than 2,305 joules (1700 footpounds);
 - (c) an air gun, air rifle or air pistol. 20
- 2 Ammunition of any of the following kinds –
 - (a) a cartridge for use in a smooth-bore gun;
 - (b) a bullet for use in a rifle other than a soft-nosed or hollow-nosed bullet.
- 3 An arrow, spear or similar missile. 25
- 4 A missile, whether discharged from a firearm or otherwise, carrying or containing any poison, stupefying drug or muscle-relaxing agent.

SCHEDULE 22

Section 52

WILD ANIMALS PROTECTED AGAINST DISTURBANCE

<i>Common name</i>	<i>Scientific name</i>	
Basking shark	Cetorhinus maximus	
Sturgeon	Acipenser sturio	5
Turtle, Marine	Caretta caretta	

SCHEDULE 23

Section 54

EXCLUDED POPULATIONS OF CERTAIN SPECIES

<i>Common name</i>	<i>Scientific name</i>	<i>Condition</i>	
Wolf, Grey	Canis lupus	The animal is from a population occurring in –	10
		(a) Bulgaria,	
		(b) Estonia,	
		(c) Greece north of the 39th parallel,	
		(d) Latvia,	15
		(e) Lithuania,	
		(f) Poland,	
		(g) Slovakia,	
		(h) Spain north of the River Duero, or	20
		(i) the reindeer management area in Finland as defined in paragraph 2 of Finnish Act No. 848/90 of 14 September 1990 on reindeer management	25
Goat, Wild	Capra aegagrus	The animal is not from a naturally occurring population	
Beaver, Eurasian	Castor fiber	The animal is from a population occurring in –	
		(a) Estonia,	30
		(b) Finland,	
		(c) Latvia,	
		(d) Lithuania,	
		(e) Poland, or	
		(f) Sweden	35
Houting	Coregonus oxyrhynchus	The animal is from Finland or an anadromous population	

<i>Common name</i>	<i>Scientific name</i>	<i>Condition</i>	
Hamster, Common (or Black bellied)	<i>Cricetus cricetus</i>	The animal is from a population occurring in Hungary	
Lynx, Eurasian	<i>Lynx lynx</i>	The animal is from a population occurring in Estonia	5
Mouflon, European	<i>Ovis gmelini</i> <i>Musimon</i>	The animal is not from a naturally occurring population in – (a) Corsica, or (b) Sardinia	10
Viper, Seoane's	<i>Vipera seoanni</i>	The animal is from a population occurring in Spain	

SCHEDULE 24

Section 60

ANIMALS PROTECTED DURING CLOSE SEASON OR PROHIBITED PERIOD

PART 1

15

ANIMALS PROTECTED FROM INTENTIONAL KILLING ETC.

- 1 Protected deer.
- 2 Hares that live, or have lived, wild.

PART 2

ANIMALS PROTECTED FROM DELIBERATE KILLING ETC.

20

- 1 Wild animals of the following kinds –
 - (a) common seals (*Phoca vitulina*);
 - (b) grey seals (*Halichoerus grypus*).

SCHEDULE 25

Section 60

CLOSE SEASONS AND PROHIBITED PERIODS

25

PART 1

CLOSE SEASONS

DEER
Chinese water deer (<i>Hydropotes inermis</i>)

Buck	1 April to 31 October inclusive	
Doe	1 April to 31 October inclusive	
Fallow deer (<i>Dama dama</i>)		
Buck	1 May to 31 July inclusive	
Doe	For the purposes of section 60, 1 April to 31 October inclusive For the purposes of section 41, 1 March to 31 October inclusive	5
Red deer (<i>Cervus elaphus</i>)		
Stags	1 May to 31 July inclusive	10
Hinds	For the purposes of section 60, 1 April to 31 October inclusive For the purposes of section 41, 1 March to 31 October inclusive	
Red/sika deer hybrids		
Stags	1 May to 31 July inclusive	15
Hinds	1 April to 31 October inclusive	
Roe deer (<i>Capreolus capreolus</i>)		
Buck	1 November to 31 March inclusive	
Doe	For the purposes of section 60, 1 April to 31 October inclusive For the purposes of section 41, 1 March to 31 October inclusive	20
Sika deer (<i>Cervus nippon</i>)		
Stags	1 May to 31 July inclusive	25
Hinds	For the purposes of section 60, 1 April to 31 October inclusive For the purposes of section 41, 1 March to 31 October inclusive	
SEALS		
Common seals (<i>Phoca vitulina</i>)	1 June to 31 August inclusive	30
Grey seals (<i>Halichoerus grypus</i>)	1 September to 31 December inclusive	

PART 2

PROHIBITED PERIODS

Animal	Prohibited period	
Protected deer (as defined in section 162)	Any time between – (a) the end of the first hour after sunset on any day, and (b) the beginning of the last hour before sunrise the following day.	5
Hares	(a) Sundays; (b) Christmas Day.	10

SCHEDULE 26

Section 72

PLANTS: EUROPEAN PROTECTED SPECIES ETC.

<i>Common name</i>	<i>Scientific name</i>	
Dock, Shore	Rumex rupestris	15
Fern, Killarney	Trichomanes speciosum	
Gentian, Early	Gentianella anglica	
Lady's-slipper	Cypripedium calceolus	
Marshwort, Creeping	Apium repens	
Naiad, Slender	Najas flexilis	20
Orchid, Fen	Liparis loeselii	
Plantain, Floating Water	Luronium natans	
Saxifrage, Yellow Marsh	Saxifraga hirculus	

SCHEDULE 27

Section 79

PLANTS: SPECIES PROTECTED IN ENGLAND AND WALES FOR THE PURPOSES OF SECTION 79

<i>Common name</i>	<i>Scientific name</i>
Bluebell	Hyacinthoides non-scripta
Tree Lungwort	Lobaria pulmonaria

5

SCHEDULE 28

Section 73

PLANTS: SPECIES PROTECTED IN ENGLAND AND WALES

<i>Common name</i>	<i>Scientific name</i>	
Adder's-tongue, Least	Ophioglossum lusitanicum	
Alison, Small	Alyssum alyssoides	5
Anomodon, Long-leaved	Anomodon longifolius	
Beech-lichen, New Forest	Enterographa elaborata	
Blackwort	Southbya nigrella	
Bolete, Royal	Boletus regius	
Broomrape, Bedstraw	Orobanche caryophyllacea	10
Broomrape, Oxtongue	Orobanche loricata	
Broomrape, Thistle	Orobanche reticulata	
Cabbage, Lundy	Rhynchosinapis wrightii	
Calamint, Wood	Calamintha sylvatica	
Caloplaca, Snow	Caloplaca nivalis	15
Catapyrenium, Tree	Catapyrenium psoromoides	
Catchfly, Alpine	Lychnis alpina	
Catillaria, Laurer's	Catellaria laureri	
Centaury, Slender	Centaureum tenuiflorum	
Cinquefoil, Rock	Potentilla rupestris	20
Cladonia, Convoluted	Cladonia convoluta	
Cladonia, Upright Mountain	Cladonia stricta	
Clary, Meadow	Salvia pratensis	
Club-rush, Triangular	Scirpus triquetrus	
Colt's-foot, Purple	Homogyne alpina	25
Cotoneaster, Wild	Cotoneaster integerrimus	
Cottongrass, Slender	Eriophorum gracile	
Cow-wheat, Field	Melampyrum arvense	
Crocus, Sand	Romulea columnae	
Crystalwort, Lizard	Riccia bifurca	30
Cudweed, Broad-leaved	Filago pyramidata	

<i>Common name</i>	<i>Scientific name</i>	
Cudweed, Jersey	Gnaphalium luteoalbum	
Cudweed, Red-tipped	Fiago lutesoens	
Cut-grass	Leersia oryzoides	
Deptford Pink	Dianthus armeria	5
Diapensia	Diapensia lapponica	
Earwort, Marsh	Jamesoniella undulifolia	
Eryngo, Field	Eryngium campestre	
Feather-moss, Polar	Hygrohypnum polare	
Fern, Dickie’s Bladder	Cystopteris dickieana	10
Flapwort, Norfolk	Leiocolea rutheana	
Fleabane, Alpine	Erigeron borealis	
Fleabane, Small	Pulicaria vulgaris	
Frostwort, Pointed	Gymnomitrium apiculatum	
Fungus, Hedgehog	Hericium erinaceum	15
Galingale, Brown	Cyperus fuscus	
Gentian, Alpine	Gentiana nivalis	
Gentian, Dune	Gentianella uliginosa	
Gentian, Spring	Gentiana verna	
Germander, Cut-leaved	Tevarium botrys	20
Germander, Water	Teucrium scordium	
Gladiolus, Wild	Gladiolus illyricus	
Goblin Lights	Catolechia wahlenbergii	
Goosefoot, Stinking	Chenopodium vulvaria	
Grass-poly	Lythrum hyssopifolia	25
Grimmia, Blunt-leaved	Grimmia unicolor	
Gyalecta, Elm	Gyalecta ulmi	
Hare’s-ear, Sickle-leaved	Bupleurum falcatum	
Hare’s-ear, Small	Bupleurum baldense	
Hawk’s-bead, Stinking	Crepis foetida	30
Hawkweed, Northroe	Hieracium northroense	

<i>Common name</i>	<i>Scientific name</i>	
Hawkweed, Shetland	Hieracium zetlandicum	
Hawkweed, Weak-leaved	Hieracium attenuatifolium	
Heath, Blue	Phyllodoce caerulea	
Helleborine, Red	Cephalanthera rubra	5
Helleborine, Young's	Epipactis youngiana	
Horsetail, Branched	Equisetum ramosissimum	
Hound's-tongue, Green	Cynoglossum germanicum	
Knawel, Perennial	Scleranthus perennis	
Knotgrass, Sea	Polygonum maritimum	10
Lecanactis, Churchyard	Lecanactis hemisphaerica	
Lecanora, Tarn	Lecanora archariana	
Lecidea, Copper	Lecidea inops	
Leek, Round-headed	Allium sphaerocephalon	
Lettuce, Least	Lactuca saligna	15
Lichen, Arctic Kidney	Nephroma arcticum	
Lichen, Ciliate Strap	Heterodermia leucomelos	
Lichen, Coralloid Rosette	Heterodermia propagulifera	
Lichen, Ear-lobed Dog	Peltigera lepidophora	
Lichen, Forked Hair	Bryoria furcellata	20
Lichen, Golden Hair	Teloschistes flavicans	
Lichen, Orange Fruited Elm	Caloplaca luteoalba	
Lichen, River Jelly	Collema dichotomum	
Lichen, Scaly Breck	Squamarina lentigera	
Lichen, Stary Breck	Buellia asterella	25
Lily, Snowdon	Lloydia serotina	
Liverwort	Petallophyllum ralfsi	
Liverwort, Lindenberg's Leafy	Adelanthus lindenbergianus	
Marsh-mallow, Rough	Althaea hirsuta	
Milk-parsley, Cambridge	Selinum carvifolia	30
Moss	Drepanocladus vernicosus	

<i>Common name</i>	<i>Scientific name</i>	
Moss, Alpine	Copper Mielichoferia mielichoferi	
Moss, Baltic Bog	Sphagnum balticum	
Moss, Blue Dew	Saelania glaucescens	
Moss, Blunt-leaved Bristle	Orthotrichum obtusifolium	5
Moss, Bright Green Cave	Cyclodictyon laetevirens	
Moss, Cordate Beard	Barbula cordata	
Moss, Cornish Path	Ditrichum cornubicum	
Moss, Derbyshire Feather	Thamnobryum angustifolium	
Moss, Dune Thread	Bryum mamillatum	10
Moss, Flamingo	Desmatodon cernuus	
Moss, Glaucous Beard	Barbula glauca	
Moss, Green Shield	Buxbaumia viridis	
Moss, Hair Silk	Plagiothecium piliferum	
Moss, Knothole	Zygodon forsteri	15
Moss, Large Yellow Feather	Scorpidium turgescens	
Moss, Millimetre	Micromitrium tenerum	
Moss, Multifruited River	Cryphaea lamyana	
Moss, Nowell's Limestone	Zygodon gracilis	
Moss, Rigid Apple	Bartramia stricta	20
Moss, Round-leaved Feather	Rhyncostegium rotundifolium	
Moss, Schleicher's Thread	Bryum schleicheri	
Moss, Triangular Pygmy	Acaulon triquetrum	
Moss, Vaucher's Feather	Hypnum vaucheri	
Mudwort, Welsh	Limosella australis	25
Naiad, Holly-leaved	Najas marina	
Orache, Stalked	Halimione pedunculata	
Orchid, Early Spider	Ophrys sphegodes	
Orchid, Ghost	Epipogium aphyllum	
Orchid, Lapland Marsh	Dactylorhiza lapponica	30
Orchid, Late Spider	Ophrys fuciflora	

<i>Common name</i>	<i>Scientific name</i>	
Orchid, Lizard	Himantoglossum hircinum	
Orchid, Military	Orchis militaris	
Orchid, Monkey	Orchis simia	
Pannaria, Caledonia	Pannaria ignobilis	5
Parmelia, New Forest	Parmelia minarum	
Parmentaria, Oil Stain	Parmentaria chilensis	
Pear, Plymouth	Pyrus cordata	
Pennyroyal	Mentha pulegium	
Penny-cress, Perfoliate	Thlaspi perfoliatum	10
Pertusaria, Alpine Moss	Pertusaria bryontha	
Physcia, Southern Grey	Physcia tribacioides	
Pigmyweed	Crassula aquatica	
Pine, Ground	Ajuga chamaepitys	
Pink, Cheddar	Dianthus gratianopolitanus	15
Pink, Childling	Petroraghia nanteuillii	
Polypore, Oak	Buglossoporus pulvinus	
Pseudocyphellaria, Ragged	Pseudocyphellaria lacerata	
Psora, Rusty Alpine	Psora rubiformis	
Puffball, Sandy Stilt	Battarraea phalloides	20
Ragwort, Fen	Senecio paludosus	
Rampion, Spiked	Phyteuma spicatum	
Ramping-fumitory, Martin's	Fumaria martinil	
Restharrow, Small	Ononis reclinata	
Rock-cress, Alpine	Arabis alpina	25
Rock-cress, Bristol	Arabis stricta	
Rock Nail	Calicium corynellum	
Rustworth, Western	Marsupella profunda	
Sandwort, Norwegian	Arenaria norvegica	
Sandwort, Teesdale	Minuartia stricta	30
Saxifrage, Drooping	Saxifraga cernua	

<i>Common name</i>	<i>Scientific name</i>	
Saxifrage, Tufted	<i>Saxifraga cespitosa</i>	
Solenopsora, Serpentine	<i>Solenopsora lipinara</i>	
Solomon's-seal, Whorled	<i>Polygonatum verticillatum</i>	
Sow-thistle, Alpine	<i>Cicerbita alpina</i>	5
Spearwort, Adder's-tongue	<i>Ranunculus ophioglossifolius</i>	
Speedwell, Fingered	<i>Veronica, triphyllas</i>	
Speedwell, Spiked	<i>Veronica spicata</i>	
Spike-rush, Dwarf	<i>Eleocharis parvula</i>	
Stack Fleawort, South	<i>Tephrosieris integrifolia</i> (ssp maritima)	10
Star-of-Bethlehem, Early	<i>Gagea betremica</i>	
Starfruit	<i>Damasonium alisma</i>	
Stonewort, Bearded	<i>Chara canescens</i>	
Stonewort, Foxtail	<i>Lamprothamnium papulosum</i>	15
Strapwort	<i>Carrigiola litoralis</i>	
Sulphur-tresses, Alpine	<i>Alectoria ochroleuca</i>	
Threadmoss, Long-leaved	<i>Bryum neodamense</i>	
Turpswort	<i>Geocalyx graveolens</i>	
Viper's-grass	<i>Scorzonera humilis</i>	20
Violet, Fen	<i>Viola persicifolia</i>	
Water-plantain, Ribbon leaved	<i>Alisma gramineum</i>	
Wood-sedge, Starved	<i>Carex depauperata</i>	
Woodsia, Alpine	<i>Woodsia alpina</i>	
Woodsia, Oblong	<i>Woodsia ilvensis</i>	25
Wormwood, Field	<i>Artemisia campestris</i>	
Woundwort, Downy	<i>Stachys germanica</i>	
Woundwort, Limestone	<i>Stachys alpina</i>	
Yellow-rattle, Greater	<i>Rhinanthus serotinus</i>	

SCHEDULE 29

Section 83

ANIMALS WHICH MAY BE SUBJECT TO PEST CONTROL ORDERS

Rabbits	
Hares	
Other rodents	5
Deer	
Foxes	
Moles	

SCHEDULE 30

Section 87

INJURIOUS WEEDS TO WHICH SECTION 87 APPLIES 10

<i>Common name</i>	<i>Scientific name</i>	
Spear thistle	Cirsium vulgare	
Creeping or field thistle	Cirsium arvense	
Curled dock	Rumex crispus	
Broad-leaved dock	Rumex obtusifolius	15
Ragwort	Senecio jacobaea	

SCHEDULE 31

Section 88

FURTHER PROVISION IN CONNECTION WITH CONTROL ORDERS AND RABBIT CLEARANCE ORDERS

<i>Interpretation</i>		20
1	In this Schedule –	
	“control order” means an order under any of sections 83, 84, 85 or 87;	
	“dwelling” means a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling;	
	“England conservation body” means –	25
	(a) Natural England;	
	(b) any body designated by regulations as such a body;	
	“pest control order” means an order under section 83;	
	“rabbit clearance order” means an order under section 86;	
	“Wales conservation body” means –	30
	(a) the Natural Resources Body for Wales;	
	(b) any body designated by regulations as such a body.	

Pest control orders affecting protected birds: additional pre-conditions

- 2 (1) This paragraph applies to a pest control order which requires, proposes or authorises the doing of anything which, but for section 25(a), it would be an offence to do under Part 1 of this Act.
- (2) Before making a pest control order to which this paragraph applies the appropriate authority must consult –
- (a) an England conservation body (in a case where the premises to which the order relates are in England);
 - (b) a Wales conservation body (in a case where the premises to which the order relates are in Wales).
- (3) The appropriate authority may make a pest control order to which this paragraph applies only if (in addition to being satisfied as mentioned in section 83(1)) the appropriate authority is satisfied that –
- (a) it is expedient to make the order for a purpose mentioned in section 23(2),
 - (b) there is no other satisfactory way of achieving that purpose,
 - (c) making the order will not be detrimental to the maintenance of the population of any species of bird at a favourable conservation status within its natural range, and
 - (d) making the order is not contrary to the United Kingdom’s obligations under –
 - (i) the Convention on the Conservation of Migratory Species of Wild Animals;
 - (ii) the Agreement on the Conservation of African-Eurasian Migratory Waterbirds;
 - (iii) the Agreement on the Conservation of Albatrosses and Petrels.
- (4) A pest control order to which this paragraph applies must specify the means, arrangements or methods to be used when doing anything in pursuance of the order.

Pest control orders affecting protected animals: additional pre-conditions

- 3 (1) This paragraph applies to a pest control order which requires, proposes or authorises the doing of anything which, but for section 69(a), it would be an offence to do under Part 2 of this Act.
- (2) Before making a pest control order to which this paragraph applies the appropriate authority must consult –
- (a) an England conservation body (in a case where the premises to which the order relates are in England);
 - (b) a Wales conservation body (in a case where the premises to which the order relates are in Wales).
- (3) The appropriate authority may make a pest control order to which this paragraph applies only if (in addition to being satisfied as mentioned in section 83(1)) it is satisfied that –
- (a) it is expedient to make the order for a purpose mentioned in section 67(2);
 - (b) there is no other satisfactory way of achieving that purpose;

- (c) making the order will not be detrimental to the maintenance of the population of any species of animal at a favourable conservation status in its natural range; and
- (d) making the order is not contrary to the United Kingdom's obligations under –
- (i) the Convention on the Conservation of Migratory Species of Wild Animals;
 - (ii) the Agreement on International Humane Trapping Standards between the European Community, Canada and the Russian Federation.
- (4) Sub-paragraph (3) is to be ignored in the case of a pest control order if the only thing the order requires, proposes or authorises which would, but for section 69(a), be an offence under Part 2 of this Act is the use of a spring trap for or in connection with the purpose of killing, injuring or capturing a relevant wild animal (within the meaning of section 37).
- (5) Paragraphs (b), (c) and (d) of sub-paragraph (3) are to be ignored in the case of a pest control order if the only thing the order requires, proposes or authorises which would, but for section 69(a), be an offence under Part 2 of this Act is –
- (a) the use of a device listed in Part 1 of Schedule 16 (other than a spring trap) for or in connection with the purpose of killing, injuring or capturing a relevant wild animal (within the meaning of section 37),
 - (b) the use of any substance listed in that Part of that Schedule for or in connection with that purpose, or
 - (c) the carrying out of any activity listed in that Part of that Schedule for or in connection with that purpose.

Consultation and proportionality

- 4 (1) Before making a control order or a rabbit clearance order the appropriate authority must –
- (a) consult any person who, in the authority's opinion, would be affected by the order;
 - (b) be satisfied that the provisions of the order are proportionate to the objective to be achieved.
- (2) Before making a control order that requires any person to take any steps, the appropriate authority must be satisfied that that person is the most appropriate person on whom to impose the requirement.

Steps that must not be required or proposed

- 5 (1) A control order and a rabbit clearance order may not require or propose the taking of steps which are prohibited by law.
- (2) But in the application of sub-paragraph (1) to a provision of an order which relates to the killing of rabbits with firearms, section 6 of the Ground Game Act 1880 (prohibition of night-shooting, etc.) is to be ignored.

Supplementary provision in orders

- 6 (1) A control order and a rabbit clearance order may contain supplementary provision.

- (2) The supplementary provision contained in a control order or a rabbit clearance order may include provision—
- (a) as to the manner in which any steps are to be taken;
 - (b) for payment to be made by the appropriate authority to any person in respect of the reasonable costs of any steps required by the order to be taken by that person or another person; 5
 - (c) authorising—
 - (i) the keeping of animals or eggs which have been killed, captured or taken in pursuance of the order;
 - (ii) the disposal of such animals or eggs, whether for the purpose of being used as food or otherwise. 10
- (3) In the case of a control order which states that the appropriate authority proposes to take steps, the supplementary provision contained in the order may also include provision as to—
- (a) who will take the steps on behalf of the appropriate authority; 15
 - (b) payment that an owner or occupier of the premises to which the order relates must make in respect of the reasonable costs of the steps.
- (4) A control order must, if appropriate, include a map of the premises to which the order relates. 20
- (5) A rabbit clearance order must, if appropriate, include a map of the area designated by the order as a rabbit clearance area.

Timing of steps

- 7 (1) A control order and a rabbit clearance order—
- (a) may not require any person to take any steps before the end of the period in which an appeal may be made against the order (see paragraph 10), and 25
 - (b) must provide that if an appeal is made against the order within that period, any steps required by the order need not be taken before the appeal is finally determined. 30
- (2) A control order—
- (a) may not provide for the appropriate authority to take any steps before the end of the period in which an appeal may be made against the order, and
 - (b) must provide that if an appeal is made against the order within that period, the appropriate authority shall not take the steps before the appeal is finally determined. 35
- (3) But sub-paragraphs (1) and (2) do not apply to a control order or a rabbit clearance order if—
- (a) the appropriate authority is of the opinion that the steps are urgently necessary, and 40
 - (b) the order contains a statement to that effect.

Notice

- 8 (1) After making a control order in relation to any premises, the appropriate authority must forthwith— 45

- (a) give notice of it to all owners and occupiers of the premises of whom the appropriate authority is aware, and
 - (b) give notice of it to any other person on whom the order imposes a requirement to take steps.
- (2) Where the appropriate authority has been unable to identify an owner and an occupier of the premises for the purposes of giving notice under subparagraph (1), notice may be given by leaving it conspicuously affixed to an object on the premises. 5
- (3) After making a rabbit clearance order designating an area as a rabbit clearance area, the appropriate authority must forthwith publish notice of the order in such manner as the appropriate authority thinks fit for the purpose of bringing it to the attention of owners and occupiers of premises within the area and any other persons likely to be affected by it. 10
- (4) Notice under this paragraph must include – 15
- (a) reasons for making the order,
 - (b) reasons for any requirement to take steps imposed by it, and
 - (c) reasons for any proposal to take steps included in it.

Revocation

- 9 (1) The appropriate authority may at any time revoke a control order or a rabbit clearance order made by it. 20
This does not stop it from making another such order in respect of the same premises or (as the case may be) the same area.
- (2) After revoking a control order made in relation to any premises, the appropriate authority must forthwith – 25
- (a) give notice of the revocation to all owners and occupiers of the premises of whom the appropriate authority is aware,
 - (b) give notice of the revocation to any other person on whom the order imposed a requirement to take steps.
- (3) Where the appropriate authority has been unable to identify an owner and an occupier of the premises for the purposes of giving notice under subparagraph (2), notice may be given by leaving it conspicuously affixed to an object on the premises. 30
- (4) After revoking a rabbit clearance order designating an area as a rabbit clearance area, the appropriate authority must forthwith publish notice of the revocation in such manner as the appropriate authority thinks fit for the purpose of bringing it to the attention of owners and occupiers of premises within the area and other persons likely to be affected by it. 35

Appeals

- 10 (1) An interested person may appeal to the First-tier Tribunal against – 40
- (a) the making of a control order or a rabbit clearance order, or
 - (b) any provision of a control order or a rabbit clearance order.
- (2) On an appeal the First-tier Tribunal may –
- (a) affirm the order,
 - (b) direct the appropriate authority to revoke or amend the order,

- (c) in the case of an order containing a statement under paragraph 7(3) (emergency), suspend the order, or
- (d) make such other order as the Tribunal thinks fit.
- (3) “Interested person” means –
- (a) in the case of a control order – 5
- (i) any owner or occupier of the premises to which the order relates, and
- (ii) any other person upon whom the order imposes a requirement to take steps;
- (b) in the case of a rabbit clearance order – 10
- (i) any owner or occupier of any premises within the area designated by the order as a rabbit clearance area, and
- (ii) any other person upon whom the order imposes a requirement to take steps.
- Enforcement* 15
- 11 (1) This paragraph applies where the appropriate authority considers that a person required by a control order or a rabbit clearance order to take any steps has not done so within the time, or in the manner, required by the order.
- (2) The appropriate authority may take the steps itself or carry out such further work as is necessary to ensure that the steps are taken in the manner required by the order. 20
- (3) The appropriate authority may recover from the person any expenses reasonably incurred by it in doing so (less any payment which the authority would apart from this paragraph have been required to make to the person in respect of the taking of the steps by that person). 25
- (4) The appropriate authority is not required to make any payment provided for under paragraph 6(2)(b) in relation to the steps (and may recover any payment made under that paragraph).
- Offences* 30
- 12 (1) A person who, without reasonable excuse, fails to comply with a requirement imposed on that person by a control order or a rabbit clearance order commits an offence.
- (2) A person commits an offence if the person intentionally obstructs another person from taking steps which are – 35
- (a) required under a control order or a rabbit clearance order, or
- (b) proposed under a control order.
- (3) A person who commits an offence under sub-paragraph (1) or (2) is liable on summary conviction to imprisonment for a period not exceeding 51 weeks, or to a fine, or to both. 40
- (4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3) to 51 weeks is to be read as a reference to 6 months.

Liability

- 13 (1) A person is not liable to any other person for doing anything required to be done by a control order or rabbit clearance order.
- (2) The appropriate authority is not liable to a person with an interest in premises for anything done – 5
- (a) by a person pursuant to a requirement included in a control order or rabbit clearance order, or
 - (b) by the authority pursuant to –
 - (i) provision included in a control order under section 83(2)(b), 84(2)(b), 85(2)(b) or 87(2)(b); 10
 - (ii) paragraph 11(2).

Powers of entry: general

- 14 (1) A person who is authorised to do so under paragraph 15 or 16 may enter any premises to –
- (a) assist the appropriate authority to determine whether to make or revoke a control order or rabbit clearance order; 15
 - (b) investigate suspected non-compliance with a control order or rabbit clearance order;
 - (c) take steps on behalf of the appropriate authority pursuant to provision included in a control order under section 83(2)(b), 84(2)(b), 85(2)(b) or 87(2)(b); 20
 - (d) place a notice pursuant to paragraph 8(2) or 9(3);
 - (e) take steps or carry out work on behalf of the appropriate authority pursuant to paragraph 11(2).
- This is subject to the other provisions of this Schedule. 25
- (2) A person may not enter premises under sub-paragraph (1)(a) with a view to establishing whether an animal, bird or plant of a particular kind is present unless the appropriate authority has reasonable grounds for suspecting that it is.

Powers of entry: authorisation by justice of the peace 30

- 15 (1) To enter premises under paragraph 14 a person must be authorised by a warrant issued by a justice of the peace where –
- (a) the premises consists of a dwelling or a garden, yard, outbuilding or other land used or enjoyed wholly with a dwelling,
 - (b) admission to the premises has been refused by an owner or refusal is reasonably apprehended, 35
 - (c) the premises are unoccupied,
 - (d) the owner is temporarily absent,
 - (e) giving notice would defeat the purpose of entry,
 - (f) entry is for the purpose mentioned in paragraph 14(1)(c) and the control order concerned contains a statement under paragraph 7(3) (emergency); 40
 - (g) entry is for the purpose mentioned in paragraph 14(1)(e) and the appropriate authority considers the steps or work concerned to be urgently necessary. 45

- (2) A justice of the peace may not grant a warrant in the circumstances in sub-paragraph (1)(a) to (d) unless satisfied that reasonable notice of the proposed entry has been given to all owners of the premises of whom the appropriate authority is aware.
- (3) For the purposes of sub-paragraph (2) less than 48 hours' notice is not reasonable. 5
- (4) A warrant may authorise a person to use reasonable force if necessary, but a person so authorised –
- (a) must be accompanied by a constable when doing so, and
 - (b) may not use force against an individual. 10

Powers of entry: authorisation by appropriate authority

- 16 (1) To enter premises under paragraph 14 in circumstances other than those specified in paragraph 15(1), a person must be authorised in writing by the appropriate authority.
- (2) A person authorised by the appropriate authority may not demand admission as of right to any premises unless reasonable notice has been given to all owners of the premises of whom the authority is aware. 15
- (3) For these purposes less than 48 hours' notice is not reasonable.

Powers of entry: exercise of power

- 17 (1) A right of entry under paragraph 14 is exercisable at any reasonable time. 20
- (2) Before exercising a right of entry under paragraph 14 a person must, if required to do so, produce evidence of his or her warrant or other authorisation and state the purpose of entry.
- (3) A person entering premises under paragraph 14 may –
- (a) take on to the premises such other persons as may be necessary; 25
 - (b) take any equipment, machinery or materials on to the premises;
 - (c) take samples of anything in or on the premises.
- (4) A person who enters premises under paragraph 14 which are unoccupied or from which the owner is temporarily absent must, on departure, leave them as effectively secured as they were on entry. 30

Compensation

- 18 (1) The Secretary of State and the Welsh Ministers may make arrangements for the payment of compensation to any person in respect of financial loss resulting from –
- (a) a control order or rabbit clearance order; 35
 - (b) the exercise of the powers of entry under this Schedule.
- (2) The arrangements may secure that compensation is payable only for financial loss above a specified amount.

SCHEDULE 32

Section 97

ANIMALS AND PLANTS TO WHICH SECTION 97 APPLIES

PART 1

ANIMALS

<i>Common name</i>	<i>Scientific name</i>	5
Bass, Large-mouthed Black	<i>Micropterus salmoides</i>	
Bass, Rock	<i>Ambloplites rupestris</i>	
Bitterling	<i>Rhodeus sericeus</i>	
Boar, Wild	<i>Sus scrofa</i>	
Capercaillie	<i>Tetrao urogallus</i>	10
Chough	<i>Pyrrhocorax pyrrhocorax</i>	
Corncrake	<i>Crex crex</i>	
Crab, Chinese Mitten	<i>Eriocheir sinensis</i>	
Crane, Common	<i>Grus grus</i>	
Crayfish, Noble	<i>Astacus astacus</i>	15
Crayfish, Red Swamp	<i>Procambarus clarkii</i>	
Crayfish, Signal	<i>Pacifastacus leniusculus</i>	
Crayfish, Spiny-cheek	<i>Orconectes limosus</i>	
Crayfish, Turkish	<i>Astacus leptodactylus</i>	
Deer, any hybrid one of whose parents or other lineal ancestor was a Sika Deer	Any hybrid of <i>Cervus nippon</i>	20
Deer, Chinese Water	<i>Hydropotes inermis</i>	
Deer, Muntjac	<i>Muntiacus reevesi</i>	
Deer, Sika	<i>Cervus Nippon</i>	
Dormouse, Fat	<i>Glis glis</i>	25
Duck, Carolina Wood	<i>Aix sponsa</i>	
Duck, Mandarin	<i>Aix galericulata</i>	
Duck, Ruddy	<i>Oxyura jamaicensis</i>	
Eagle, White-tailed	<i>Haliaeetus albicilla</i>	
Flatworm	<i>Kontikia andersoni</i>	30

<i>Common name</i>	<i>Scientific name</i>	
Flatworm	Kontikia ventrolineata	
Flatworm, Australian	Australoplana sanguinea	
Frog, Edible	Rana esculenta	
Frog, European Tree (otherwise known as Common tree frog)	Hyla arborea	5
Flatworm, New Zealand	Artiposthia triangulata	
Frog, Marsh	Rana ridibunda	
Goose, Bar-headed	Anser indicus	
Goose, Barnacle	Branta leucopsis	10
Goose, Canada	Branta canadensis	
Goose, Egyptian	Alopochen aegyptiacus	
Goose, Emperor	Anser canagicus	
Goose, Snow	Anser caerulescens	
Goshawk	Accipiter gentilis	15
Heron, Night	Nycticorax nycticorax	
Kite, Red	Milvus milvus	
Limpet, Sliper	Crepidula fornicata	
Lizard, Common Wall	Podarcis muralis	
Marmot, Prairie (otherwise known as Prairie dog)	Cynomys	20
Mink, American	Mustela vison	
Newt, Alpine	Tritus alpestris	
Newt, Italian Cretsed	Triturus carnifex	
Owl, Barn	Tyto alba	25
Owl, Eagle	Bubo bubo	
Oyster Drill, American	Urosalpinx cinerea	
Parakeet, Monk	Myiopsitta monachus	
Parakeet, Ring-necked	Psittacula krameri	
Partridge, Chukar	Alectrois chukar	30
Partridge, Rock	Alectoris graeca	
Pheasant, Golden	Chrysolophus pictus	

<i>Common name</i>	<i>Scientific name</i>	
Pheasant, Lady Amherst's	<i>Chrysolophus amherstiae</i>	
Pheasant, Reeves'	<i>Syrmaticus reevesii</i>	
Pheasant, Silver	<i>Lophura nycthemera</i>	
Pochard, Red-crested	<i>Netta rufina</i>	5
Pumpkinseed (otherwise known as Sun-fish or Pond-perch)	<i>Lepomis gibbosus</i>	
Rat, Black	<i>Rattus rattus</i>	
Shelduck, Ruddy	<i>Tadorna ferruginea</i>	
Snake, Aesculapian	<i>Elaphe longissima</i>	10
Squirrel, Grey	<i>Sciurus carolinensis</i>	
Swan, Black	<i>Cygnus atratus</i>	
Terrapin, European Pond	<i>Emys orbicularis</i>	
Toad, African Clawed	<i>Xenopus laevis</i>	
Toad, Midwife	<i>Alytes obstetricans</i>	15
Toad, Yellow-bellied	<i>Bombina variegata</i>	
Wallaby, Red-necked	<i>Macropus rufogriseus</i>	
Wels (otherwise known as European catfish)	<i>Silurus glanis</i>	
Zander	<i>Stizostedion lucioperca</i>	20

PART 2

PLANTS

<i>Common name</i>	<i>Scientific name</i>	
Alexanders, Perfoliate	<i>Smyrniun perfoliatum</i>	
Algae, Red	<i>Grateloupia luxurians</i>	25
Archangel, Variegated Yellow	<i>Lamiastrum galeobdolon</i> subsp. <i>argentatum</i>	
Azalea, Yellow	<i>Rhododendron luteum</i>	
Balsam, Himalayan	<i>Impatiens glandulifera</i>	
Cotoneaster	<i>Cotoneaster horizontalis</i>	30
Cotoneaster, Entire-leaved	<i>Cotoneaster integrifolius</i>	

<i>Common name</i>	<i>Scientific name</i>	
Cotoneaster, Himalayan	conton easter simonsii	
Cotoneaster, Hollyberry	Cotoneaster bullatus	
Cotoneaster, Small-leaved	Cotoneaster microphyllus	
Creeper, False Virginia	Parthenocissus quinquefolia	5
Dewplant, Purple	Disphyma caroliniana	
Fern, Water	Azolla filiculoides	
Fig, Hottentot	Carpobrotus edulis	
Garlic, Three-cornered	Allium triquetrum	
Hogweed, Giant	Heracleum mantegazzianum	10
Hyacinth, Water	Eichhornia crassipes	
Kelp, Giant	Macrocystis angustifolia	
Kelp, Giant	Macrocystis integrifolia	
Kelp, Giant	Macrocystis laevis	
Kelp, Japanese	Laminaria japonica	15
Kelp, Giant	Macrocystis pyrifera	
Knotweed, Giant	Fallopia sachalinensis	
Knotweed, Hybrid	Fallopia japonica x Fallopia sachalinensis	
Knotweed, Japanese	Fallopia japonica	20
Leek, Few-flowered	Allium paradoxum	
Lettuce, Water	Pistia stratiotes	
Montbretia	Crocasmia x crocosmiiflora	
Parrot's Feather	Myriophyllum aquaticum	
Pennywort, Floating	Hydrocotyle ranunculoides	25
Potato, Duck	Sagittaria latifolia	
Primrose, Floating Water	Ludwigia pepoides	
Primrose, Water	Ludwigia grandiflora	
Primrose, Water	Ludwigia uruguayensis	
Rhododendron	Rhododendron ponticum	30
Rhododendron	Rhododendron ponticum x Rhododendron maximum	

<i>Common name</i>	<i>Scientific name</i>	
Rhubarb, Giant	<i>Gunnera tinctoria</i>	
Rose, Japanese	<i>Rosa rugosa</i>	
Salvinia, Green	<i>Codium fragile</i>	
Seaweed, Californian Red	<i>Pikea californica</i>	5
Seaweed, Hooked Asparagus	<i>Asparagopsis amrmata</i>	
Seaweeds, Laver (except native species)	Porhyra spp except –	
	(a) <i>p. amethystea</i>	
	(b) <i>p. leucostica</i>	
	(c) <i>p. linearis</i>	10
	(d) <i>p. miniata</i>	
	(e) <i>p. purpurea</i>	
	(f) <i>p. umbilicalis</i>	
Seaweed, Japanese	<i>Sargassum muticum</i>	
Stonecrops, Australian Swamp (otherwise known as New Zealand Pygmyweed)	<i>Crassula helmsii</i>	15
Wakame	<i>Undaria pinnatifida</i>	
Waterweed, Curly	<i>Lagarosiphon major</i>	
Waterweeds	All species of the genus <i>Elodea</i> .	20

SCHEDULE 33

Section 115

THINGS CAPABLE OF KILLING ETC. WILD ANIMALS WHICH IT IS AN OFFENCE TO SELL

Grain or seed which has been rendered poisonous.
Spring traps.

SCHEDULE 34

Section 146

25

CIVIL SANCTIONS

PART 1

REGULATORS AND RELEVANT OFFENCES

Regulators

- 1 (1) Regulations may provide that a person listed in sub-paragraph (2) is a regulator for some or all of the purposes of this Schedule. 30

- (2) The persons are –
- (a) the Environment Agency;
 - (b) the Forestry Commissioners;
 - (c) Natural England;
 - (d) the Natural Resources Body for Wales; 5
 - (e) the Marine Management Organisation;
 - (f) any other person who has an enforcement function in relation to a relevant offence.
- (3) Regulations under sub-paragraph (1) must specify the relevant offences in respect of which a regulator may exercise a power under this Schedule. 10
- (4) In sub-paragraph (2)(f) “enforcement function” means a function (whether or not statutory) of taking any action with a view to or in connection with the imposition of any sanction, criminal or otherwise, in a case where a relevant offence is committed.
- (5) Sub-paragraph (2)(f) does not include – 15
- (a) the Crown Prosecution Service;
 - (b) a member of a police force in England or Wales.

Relevant offences

- 2 (1) In this Schedule “relevant offence” means an offence under – 20
- (a) any provision of Part 1, 2 or 3 of this Act;
 - (b) section 93 (spreading of myxomatosis);
 - (c) section 95, 96 or 97 (invasive non-native species etc.);
 - (d) section 108 (prohibition on use of leghold traps);
 - (e) section 114 or 115 (offences of possessing and selling certain things);
 - (f) section 118 (failure to comply with a licence condition); 25
 - (g) section 122 (failure to exercise supervision or control);
 - (h) any other provision of this Act that may be prescribed.
- (2) References in this Schedule to a “specified relevant offence”, in relation to which a regulator may exercise a power under this Schedule, are references to a relevant offence specified in regulations under paragraph 1(3) in respect of which the regulator may exercise that power. 30

Regulations under paragraph 1

- 3 (1) The relevant authority may only make regulations under paragraph 1(1) in respect of a person listed in paragraph 1(2) if satisfied that the person, in exercising the powers under this Schedule, will act in accordance with the principles that – 35
- (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
 - (b) regulatory activities should be targeted only at cases in which action is needed. 40
- (2) Before making regulations under paragraph 1, the relevant authority must consult –
- (a) the regulator to which the regulations relate,

- (b) such organisations as appear to the relevant authority to be representative of persons substantially affected by the proposals, and
 - (c) such other persons as the relevant authority considers appropriate.
- (3) If, as a result of the consultation required by sub-paragraph (2), it appears to the relevant authority that it is appropriate to substantially change the whole or any part of the proposals, the relevant authority must undertake such further consultation with respect to the changes as it considers appropriate. 5

PART 2

FIXED MONETARY PENALTIES 10

Imposition of a penalty

- 4 (1) A regulator may by notice impose a fixed monetary penalty on a person if satisfied beyond reasonable doubt that the person has committed a specified relevant offence.
- (2) For the purposes of this Schedule a “fixed monetary penalty” is a requirement to pay to a regulator a penalty of a prescribed amount. 15

Procedure

- 5 (1) Where a regulator proposes to impose a fixed monetary penalty on a person, it must serve on the person a notice of what is proposed (a “notice of intent”).
- (2) A notice of intent must – 20
- (a) offer the person the opportunity to discharge liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty) before the expiry of the period specified in the notice, and
 - (b) comply with the requirements in paragraph 6. 25
- (3) If the person does not discharge liability as mentioned in sub-paragraph (2)(a) – 30
- (a) the person may, before the expiry of the period specified in the notice, make written representations and objections to the regulator in relation to the proposed imposition of the fixed monetary penalty, and
 - (b) after the end of the period for making such representations and objections, the regulator must decide whether to impose the fixed monetary penalty.
- (4) For the purposes of sub-paragraph (2)(a) or (3)(a), the period specified in the notice must not exceed the period of 28 days beginning with the day on which the notice of intent was served. 35
- (5) If the regulator decides to impose the penalty, the notice imposing it (the “final notice”) must comply with the requirements in paragraph 6.
- (6) A regulator may not impose a fixed monetary penalty on a person – 40
- (a) if, taking into account any matter raised by the person, the regulator is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence;

- (b) in such other circumstances as may be prescribed.

Information to be included in notices under paragraph 5

- 6 (1) A notice of intent under paragraph 5(1) must include information as to—
- (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) the effect of payment of the sum referred to in paragraph 5(2)(a), 5
 - (c) the period within which liability to the fixed monetary penalty may be discharged,
 - (d) the right to make representations and objections, and the period within which they may be made, and
 - (e) the circumstances in which the regulator may not impose the fixed monetary penalty. 10
- (2) A final notice under paragraph 5(5) must include information as to—
- (a) the grounds for imposing the fixed monetary penalty,
 - (b) how payment may be made,
 - (c) the period within which payment may be made, 15
 - (d) any prescribed early payment discounts or prescribed late payment penalties,
 - (e) the right of appeal, and
 - (f) the consequences of non-payment.

Appeals 20

- 7 A person on whom a fixed monetary penalty is imposed may appeal against the decision to impose the penalty on the grounds that—
- (a) it was based on an error of fact,
 - (b) it was wrong in law, or
 - (c) it was unreasonable, 25
- or on such other grounds as may be prescribed.

Criminal proceedings and conviction

- 8 (1) Where a notice of intent under paragraph 5(1) is served on a person—
- (a) no criminal proceedings for a relevant offence may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person’s liability may be discharged as mentioned in paragraph 5(2); 30
 - (b) if the liability is so discharged, the person may not at any time be convicted of the relevant offence in relation to that act or omission.
- (2) A person on whom a fixed monetary penalty is imposed may not at any time be convicted of a relevant offence in respect of the act or omission giving rise to the penalty. 35

PART 3

DISCRETIONARY REQUIREMENTS

Imposition of discretionary requirements

- 9 (1) A regulator may impose one or more discretionary requirements on a person if satisfied beyond reasonable doubt that the person has committed a specified relevant offence. 5
- (2) For the purposes of this Schedule a “discretionary requirement” means –
- (a) a requirement to pay a monetary penalty to a regulator of such amount as the regulator may determine,
 - (b) a requirement to take such steps as a regulator may specify, within such period as it may specify, to secure that the offence does not continue or recur, or 10
 - (c) a requirement to take such steps as a regulator may specify, within such period as it may specify, to secure that the position is, as far as possible, restored to what it would have been if the offence had not been committed. 15
- (3) A discretionary requirement may not be imposed on a person on more than one occasion in relation to the same act or omission.
- (4) The amount of a variable monetary penalty must not exceed such amount as may be prescribed. 20
- (5) In this Schedule –
- (a) “variable monetary penalty” means a requirement referred to in sub-paragraph (2)(a);
 - (b) “non-monetary discretionary requirement” means a requirement referred to in sub-paragraph (2)(b) or (c). 25

Procedure

- 10 (1) Where a regulator proposes to impose a discretionary requirement on a person, it must serve on the person a notice of what is proposed (a “notice of intent”).
- (2) The person on whom the notice of intent is served may, before the expiry of the period specified in the notice, make written representations and objections to the regulator in relation to the proposed imposition of the discretionary requirement. 30
- (3) For the purposes of sub-paragraph (2) the period specified in the notice must be a period of at least 28 days beginning with the day on which the notice was served. 35
- (4) The person on whom the notice of intent is served may offer an undertaking as to action to be taken by that person (including payment of a sum of money) to benefit any third party affected by the offence.
- (5) The regulator – 40
- (a) may accept or reject the proposed undertaking, and
 - (b) must take into account any undertaking that it accepts under this paragraph in deciding –

- (i) whether or not to serve a final notice, and
 - (ii) the amount of any variable monetary penalty it imposes.
- (6) After the end of the period for making representations and objections the regulator must decide whether to –
 - (a) impose the discretionary requirement, with or without modifications, or 5
 - (b) impose any other discretionary requirement that the regulator has power to impose under this Schedule.
- (7) If the regulator decides to impose a discretionary requirement, the notice imposing it (a “final notice”) must comply with the requirements in paragraph 12. 10
- (8) A regulator may not impose a discretionary requirement on a person –
 - (a) if, taking into account any matter raised by the person, the regulator is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence; 15
 - (b) in such other circumstances as may be prescribed.
- (9) A person on whom a discretionary requirement is imposed may appeal against the decision to impose the requirement on the ground that –
 - (a) it was based on an error of fact,
 - (b) it was wrong in law, 20
 - (c) in the case of a variable monetary penalty, the amount of the penalty is unreasonable,
 - (d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable, or
 - (e) that the decision was unreasonable for any other reason, 25or on such other grounds as may be prescribed.

Information to be included in notices under paragraph 10

- 11 (1) A notice of intent under paragraph 10(1) must include information as to –
 - (a) the grounds for the proposal to impose the discretionary requirement, 30
 - (b) the right to make representations and objections,
 - (c) the circumstances in which the regulator may not impose the discretionary requirement, and
 - (d) the right to make representations and objections before the expiry of the period specified in the notice. 35
- 12 (1) A final notice under paragraph 10(7) must include information as to –
 - (a) the grounds for imposing the discretionary requirement,
 - (b) where the discretionary requirement is a variable monetary penalty –
 - (i) how payment may be made, 40
 - (ii) the period within which payment may be made, and
 - (iii) any prescribed early payment discounts or prescribed late payment penalties,
 - (c) the right of appeal, and
 - (d) the consequences of non-payment. 45

- (2) The period specified for the purposes of sub-paragraph (1)(b)(ii) must be a period of at least 28 days beginning with the day on which the final notice is served.

Conviction for a criminal offence

- 13 (1) Sub-paragraph (2) applies where – 5
- (a) a discretionary requirement is imposed on a person, or
 - (b) an undertaking is accepted from a person in accordance with paragraph 10(5).
- (2) The person on whom the discretionary requirement is imposed, or from whom an undertaking is accepted, may not at any time be convicted of a relevant offence in respect of the act or omission giving rise to the requirement or undertaking except in a case to which sub-paragraph (3) applies. 10
- (3) This sub-paragraph applies where –
- (a) either – 15
 - (i) a non-monetary discretionary requirement is imposed on the person, or
 - (ii) an undertaking is accepted from the person in accordance with paragraph 10(5),
 - (b) no variable monetary penalty is imposed on the person, and 20
 - (c) the person fails to comply with the non-monetary discretionary requirement or undertaking.

Enforcement

- 14 (1) A regulator may by notice impose a monetary penalty (a “non-compliance penalty”) on a person who fails to comply with – 25
- (a) a non-monetary discretionary requirement, or
 - (b) an undertaking accepted in accordance with paragraph 10(5).
- (2) The amount of the penalty is to be determined by the regulator and must not exceed the cost of fulfilling the remaining non-monetary discretionary requirements or (as the case may be) securing that the action specified in the undertaking is taken. 30
- (3) A notice under this paragraph must state –
- (a) the grounds for imposing the non-compliance penalty,
 - (b) the amount to be paid,
 - (c) how payment must be made, 35
 - (d) the period within which payment must be made,
 - (e) the right of appeal,
 - (f) the consequences of failure to make the payment within the period specified in the notice, and
 - (g) any circumstances in which the regulator may reduce the amount of the penalty. 40
- (4) The period specified under sub-paragraph (3)(d) in a notice imposing a non-compliance penalty must be a period of at least 28 days beginning with the day on which the notice is served.

- (5) If the person on whom notice of a non-compliance penalty is served complies with the discretionary requirements or undertaking before the expiry of the period referred to in sub-paragraph (3)(d), the penalty is not payable.
- (6) A person on whom a notice imposing a non-compliance penalty is served may appeal against the decision to impose it. 5
- (7) The grounds of appeal are that the decision to serve the notice was –
- (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unfair or unreasonable for any reason (including that the amount of the penalty was unreasonable), 10
- or on such other grounds as may be prescribed.

PART 4

STOP NOTICES

Imposition of a stop notice 15

- 15 (1) A regulator may serve a stop notice on a person in respect of a specified relevant offence.
- (2) A “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice. 20
- (3) A stop notice may only be served where sub-paragraph (4) or (5) applies.
- (4) This sub-paragraph applies where –
- (a) the person is carrying on the activity,
 - (b) the regulator reasonably believes that the activity as carried on by that person is causing, or presents a significant risk of causing, serious harm to the environment, and 25
 - (c) the regulator reasonably believes that the activity as carried on by that person involves or is likely to involve the commission of a specified relevant offence by that person.
- (5) This sub-paragraph applies where the regulator reasonably believes that – 30
- (a) the person is likely to carry on the activity,
 - (b) the activity as likely to be carried on by that person will cause, or present a significant risk of causing, serious harm to the environment, and
 - (c) the activity as likely to be carried on by that person will involve or will be likely to involve the commission of a specified relevant offence by that person. 35
- (6) The references in sub-paragraphs (4)(b) and (5)(b) to causing, or presenting a significant risk of causing, serious harm to the environment include references to having, or presenting a significant risk of having, a serious adverse impact on – 40
- (a) biodiversity;
 - (b) animal welfare;

(c) the conservation of species of animals and plants that are protected by this Act.

(7) The steps referred to in sub-paragraph (2) are steps to remove or reduce the harm or risk of harm referred to in sub-paragraph (4)(b) or (5)(b).

Procedure 5

- 16 (1) A stop notice must include information as to –
- (a) the grounds for serving the notice,
 - (b) the right of appeal, and
 - (c) the consequences of non-compliance.
- (2) A person on whom a stop notice is served may appeal against the decision to serve it on the ground that –
- (a) the decision was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unreasonable,
 - (d) any step specified in the notice is unreasonable, 15
 - (e) that the person has not committed the specified relevant offence and would not have committed it had the stop notice not been served, or
 - (f) that the person would not, by reason of any defence, have been liable to be convicted of the specified relevant offence had the stop notice not been served, 20
- or on such other grounds as may be prescribed.

Completion certificates

- 17 (1) Where, after service of a stop notice, the regulator is satisfied that the person has taken the steps specified in the notice, the regulator must issue a certificate to that effect (a “completion certificate”). 25
- (2) The stop notice ceases to have effect on the issue of a completion certificate.
- (3) A person on whom a stop notice is served may at any time apply for a completion certificate.
- (4) The regulator must make a decision as to whether to issue a completion certificate within 14 days of such an application. 30
- (5) A person who has made an application under sub-paragraph (3) may appeal against a decision not to issue a completion certificate on the grounds that –
- (a) the decision was based on an error of fact,
 - (b) the decision was wrong in law, or
 - (c) the decision was unfair or unreasonable, 35
- or on such other grounds as may be prescribed.

Compensation

- 18 (1) A regulator must compensate a person for loss suffered as the result of the service of a stop notice or refusal of a completion certificate where the person has suffered loss as a result of the notice or refusal and – 40
- (a) a stop notice is subsequently withdrawn or varied by the regulator because the decision to serve it was unreasonable or any step specified in the notice was unreasonable,

- (b) a stop notice is withdrawn or varied by the First-tier Tribunal on appeal on the ground that the decision to serve the notice was unreasonable or any step specified in the notice was unreasonable, or
 - (c) on an appeal against a decision of the regulator not to issue a completion certificate, the First-tier Tribunal finds that the refusal was unreasonable. 5
- (2) A person on whom a stop notice is served, or a person who is refused a completion certificate, may appeal against a decision of the regulator –
 - (a) not to award compensation under sub-paragraph (1);
 - (b) as to the amount of the compensation awarded. 10
- (3) An appeal under sub-paragraph (2) against a decision of the regulator may be brought on the grounds that –
 - (a) the decision is unreasonable, or
 - (b) the decision as to the amount of compensation was based on incorrect facts, 15or on such other grounds as may be prescribed.

Offences

- 19 (1) Where a person on whom a stop notice is served does not comply with it, the person commits an offence and is liable –
 - (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine, or to both; 20
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine, or to both.
- (2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (1) to 12 months is to be read as a reference to 6 months. 25

PART 5

ENFORCEMENT UNDERTAKINGS

Acceptance of an enforcement undertaking

- 20 (1) Where a regulator has reasonable grounds to suspect that a person has committed a specified relevant offence, the regulator may accept an enforcement undertaking from the person. 30
- (2) For the purposes of this Schedule, an “enforcement undertaking” is an undertaking to take such action as may be specified in the undertaking within such period as may be so specified. 35
- (3) The action specified in an enforcement undertaking must be –
 - (a) action to secure that the offence does not continue or recur,
 - (b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed,
 - (c) action (including the payment of a sum of money) to benefit any person affected by the offence, or 40
 - (d) such other action as may be prescribed.

-
- (4) Sub-paragraph (5) applies where the regulator has accepted an enforcement undertaking from a person.
- (5) Unless the person has failed to comply with the undertaking or any part of it—
- (a) the person may not at any time be convicted of the relevant offence in respect of the act or omission to which the undertaking relates, 5
 - (b) the regulator may not impose on the person any fixed monetary penalty which it would otherwise have power to impose by virtue of paragraph 4 in respect of that act or omission, and
 - (c) the regulator may not impose on the person any discretionary requirement which it would otherwise have power to impose by virtue of paragraph 9 in respect of that act or omission. 10
- (6) An enforcement undertaking accepted by a regulator may be varied by agreement between the regulator and the person who gave the undertaking.
- Discharge of an enforcement undertaking* 15
- 21 (1) This paragraph applies where a regulator has accepted an enforcement undertaking from a person.
- (2) Where the regulator is satisfied that the enforcement undertaking has been complied with, the regulator must issue a certificate to that effect.
- (3) An enforcement undertaking ceases to have effect on the issue of a certificate relating to that undertaking. 20
- (4) The person who gave the undertaking may at any time apply for a certificate under sub-paragraph (2), and the regulator must make a decision as to whether to issue a certificate within the period of 14 days beginning with the day on which it receives the application. 25
- (5) An application under sub-paragraph (4) must be accompanied by such information as is reasonably necessary to enable the regulator to determine whether the undertaking has been complied with.
- (6) Where, on an application under sub-paragraph (4), the regulator decides not to issue a certificate, it must notify the applicant and provide the applicant with information as to— 30
- (a) the grounds for the decision not to issue a certificate, and
 - (b) the right of appeal.
- (7) A person who has given an enforcement undertaking may appeal against a decision not to issue a certificate under sub-paragraph (2) on the ground that the decision was— 35
- (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unreasonable for any other reason,
- or on such other grounds as may be prescribed. 40
- (8) The regulator may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information.
- (9) Where the regulator revokes a certificate, the enforcement undertaking has effect as if the certificate had not been issued.

PART 6

SUPPLEMENTARY PROVISION

Combination of sanctions

- 22 (1) A regulator may not serve on a person a notice of intent under paragraph 5(1) (fixed monetary penalties) in relation to any act or omission where— 5
- (a) a discretionary requirement has been imposed on the person in relation to the act or omission, or
 - (b) a stop notice has been served on the person in relation to the act or omission.
- (2) A regulator may not serve on a person a notice of intent under paragraph 10(1) (discretionary requirements) in relation to any act or omission where— 10
- (a) a fixed monetary penalty has been imposed on the person in relation to the act or omission, or
 - (b) the person has discharged liability to a fixed monetary penalty in relation to the act or omission as referred to in paragraph 5(2). 15

Costs recovery

- 23 (1) A regulator may, by notice, require a person on whom a discretionary requirement is imposed to pay the costs incurred by the regulator in relation to the imposition of the discretionary requirement up to the time of its imposition. 20
- (2) A regulator may, by notice, require a person on whom a stop notice is served to pay the costs incurred by the regulator in relation to the service of the notice up to the time of its service.
- (3) In sub-paragraphs (1) and (2) the references to costs include in particular— 25
- (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).
- (4) A notice under sub-paragraph (1) or (2) must include information as to— 30
- (a) the amount required to be paid,
 - (b) the period within which payment must be made,
 - (c) how payment must be made, and
 - (d) the right of appeal.
- (5) The period specified for the purposes of sub-paragraph (4)(b) must be a period of at least 28 days beginning with the day on which the notice is served. 35
- (6) The person on whom the notice is served may require the regulator to provide a detailed breakdown of the amount required to be paid.
- (7) The person required to pay costs is not liable to pay any costs shown by that person to have been unnecessarily incurred.
- (8) The person on whom the notice is served may appeal against— 40
- (a) the decision of the regulator to impose the requirement to pay costs;
 - (b) the decision of the regulator as to the amount of those costs.

Recovery of monetary penalty

- 24 A regulator may recover a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty on the order of a court, as if payable under a court order.

Power of entry

5

- 25 (1) A person authorised by a regulator may, at any reasonable time, enter premises, other than premises used exclusively as domestic premises, for the purpose of ascertaining –
- (a) whether a non-monetary discretionary requirement imposed under this Schedule has been complied with, 10
 - (b) whether a stop notice has been complied with, or
 - (c) whether an undertaking accepted under this Schedule has been fulfilled.
- (2) The person must, if requested to do so, produce evidence of his or her authority before entering premises under this paragraph. 15

Withdrawing or varying a notice

- 26 A regulator may at any time in writing –
- (a) withdraw a notice of intent or a final notice under paragraph 5 (fixed monetary penalties);
 - (b) withdraw, or reduce the amount specified in – 20
 - (i) a notice of intent or a final notice under paragraph 10 in respect of a proposal to impose, or the imposition of, a variable monetary penalty,
 - (ii) a notice under paragraph 14 imposing a non-compliance penalty, or 25
 - (iii) a notice under paragraph 23(1) or (2) (costs recovery);
 - (c) withdraw –
 - (i) a notice of intent or a final notice under paragraph 10 in respect of a proposal to impose, or the imposition of, a non-monetary discretionary requirement (a “non-monetary discretionary requirement notice”), or 30
 - (ii) a stop notice under paragraph 15;
 - (d) amend the steps specified in a non-monetary discretionary requirement notice or a stop notice so as to reduce the burden of complying with the notice. 35

Appeals

- 27 (1) An appeal under this Schedule is to the First-tier Tribunal.
- (2) The Tribunal may, in relation to an appeal against a decision to impose a requirement or serve a notice under this Schedule – 40
- (a) confirm the requirement or notice;
 - (b) withdraw the requirement or notice;
 - (c) vary the requirement or notice;
 - (d) take such steps as the regulator could take in relation to the act or omission giving rise to the requirement or notice;

- (e) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the regulator;
 - (f) award costs.
- (3) The Tribunal may, in relation to a decision not to issue a completion certificate— 5
- (a) confirm the decision;
 - (b) direct the regulator to issue a completion certificate;
 - (c) remit the decision, or any matter relating to that decision, to the regulator;
 - (d) award costs. 10

PART 7

GUIDANCE ETC.

Guidance as to use of civil sanctions

- 28 (1) A regulator must publish guidance about its use of civil sanctions that may be imposed under this Schedule, and may revise the guidance from time to time. 15
- (2) The regulator must have regard to the guidance in exercising its functions.
- (3) Guidance relating to a fixed monetary penalty must include information as to—
- (a) the circumstances in which the penalty is likely to be imposed, 20
 - (b) the circumstances in which it may not be imposed,
 - (c) the amount of the penalty,
 - (d) how liability for the penalty may be discharged and the effect of discharge, and
 - (e) the right to make representations and objections and rights of appeal. 25
- (4) Guidance relating to a discretionary requirement must include information as to—
- (a) the circumstances in which the requirement is likely to be imposed,
 - (b) the circumstances in which it may not be imposed,
 - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the regulator in determining the amount of the penalty, and 30
 - (d) the right to make representations and objections and rights of appeal.
- (5) Guidance relating to a stop notice must include information as to—
- (a) the circumstances in which the regulator is likely to serve the notice, 35
 - (b) the circumstances in which it may not be imposed, and
 - (c) rights of appeal.
- (6) The regulator must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this paragraph.

Publication of enforcement action 40

- 29 (1) A regulator must from time to time publish a report specifying—

- (a) the cases in which a civil sanction has been imposed under this Schedule;
 - (b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged as referred to in paragraph 5(2)(a); 5
 - (c) where the civil sanction is a discretionary requirement, the cases in which an undertaking is accepted from a person in accordance with paragraph 10(5);
 - (d) cases in which an enforcement undertaking has been accepted under paragraph 20. 10
- (2) In sub-paragraph (1) the reference to cases in which the civil sanction has been imposed do not include cases where the sanction has been imposed but overturned on appeal.

PART 8

REVIEW AND SUSPENSION 15

Review

- 30 (1) The relevant authority must, in accordance with this paragraph, review the designation of a person as a regulator, and offences in respect of which that regulator may exercise a power under this Schedule, provided for by regulations under paragraph 1. 20
- (2) The review must take place as soon as practicable after the end of the period of three years beginning with the day on which the provision making the designation, or specifying the offence, comes into force.
- (3) The review must in particular consider whether the provision has implemented its objectives efficiently and effectively. 25
- (4) In conducting a review under this section the relevant authority must consult such persons as the authority considers appropriate.
- (5) The relevant authority must publish the results of a review under this section.
- (6) The relevant authority must lay a copy of a review under this section before— 30
- (a) Parliament (where the relevant authority is a Minister of the Crown), or
 - (b) the National Assembly for Wales (where the relevant authority is the Welsh Ministers). 35

Suspension

- 31 (1) The relevant authority may direct a regulator—
- (a) not to serve any further notice of intent referred to in paragraph 5(1) (fixed monetary penalties) in relation to an offence;
 - (b) not to serve any further notice of intent referred to in paragraph 10(1) (discretionary requirements) in relation to an offence; 40
 - (c) not to serve any further stop notice in relation to an offence;
 - (d) not to accept any further enforcement undertaking in relation to an offence.

- (2) The relevant authority may only give a direction under sub-paragraph (1) in relation to an offence if it is satisfied that the regulator has failed on more than one occasion –
- (a) to comply with any duty imposed on it under this Schedule in relation to that offence, 5
 - (b) to act in accordance with the guidance it has published in relation to that offence (in particular, the guidance published under paragraph 28), or
 - (c) to act in accordance with the principles referred to in paragraph 3(1) or with other principles of best practice in relation to the enforcement of that offence. 10
- (3) The relevant authority may by direction revoke a direction given by it under sub-paragraph (1) if satisfied that the regulator has taken the appropriate steps to remedy the failure to which that direction related.
- (4) Before giving a direction under sub-paragraph (1) or (3) the relevant authority must consult – 15
- (a) the regulator, and
 - (b) such other persons as the authority considers appropriate.
- (5) Where the relevant authority gives a direction under this section, the authority must lay a copy before Parliament (where the relevant authority is the Secretary of State) or the National Assembly for Wales (where the relevant authority is the Welsh Ministers). 20
- (6) Where the relevant authority gives a direction under this section, the regulator must –
- (a) publish the direction in such manner as the relevant authority thinks fit, and 25
 - (b) take such other steps as the regulator thinks fit or the relevant authority may require to bring the direction to the attention of other persons likely to be affected by it.

PART 9 30

INTERPRETATION

- 32 (1) The following definitions apply for the purposes of this Schedule.
- (2) “Civil sanction” means –
- (a) a fixed monetary penalty,
 - (b) a discretionary requirement, 35
 - (c) a stop notice, or
 - (d) an enforcement undertaking (and references to the imposition of a civil sanction include references to the acceptance of an enforcement undertaking).
- (3) “Prescribed” means prescribed by regulations. 40
- (4) “Relevant authority” means –
- (a) the Secretary of State, in relation to provision made, or proposed to be made, under paragraph 1(1) by the Secretary of State, and
 - (b) the Welsh Ministers, in relation to provision made, or proposed to be made, under paragraph 1(1) by the Welsh Ministers. 45

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