

Changes to legislation: *Wildlife and Countryside Act 1981, Part 2 is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

[^{F1}SCHEDULE 9B

INVASIVE ALIEN SPECIES: DEFENCES AND LICENCES

Textual Amendments

- F1** Sch. 9B inserted (1.11.2019) (S.) by [The Conservation \(Natural Habitats, c.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/364\)](#), regs. 1(2), **2(8)**

PART 2

DEFENCES

Companion animals

2. (1) This paragraph applies where—
- (a) a person is charged with an offence under section 14ZC or 14AA,
 - (b) the charge relates to an animal, and
 - (c) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F2}Scotland], except for the transportation of species to facilities in the context of eradication).
- (2) It is a defence to the charge to show that—
- (a) immediately before the inclusion on the [^{F3}Scottish list of species of special concern] of the species to which the animal belongs, the animal was kept as a companion animal,
 - (b) at all material times the animal was kept—
 - (i) as a companion animal, or
 - (ii) for the purpose of transporting the animal to a place mentioned in sub-paragraph (3), and
 - (c) at all material times—
 - (i) the animal was kept in contained holding, and
 - (ii) appropriate measures were in place to ensure that it could not reproduce or escape.
- (3) The places referred to in sub-paragraph (2)(b)(ii) are—
- (a) an establishment to which a relevant licence or permit has been granted,
 - (b) a facility to which a relevant licence has been granted,
 - (c) a place where the animal was to be humanely killed.

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(4) In sub-paragraph (3)—

- (a) “relevant licence or permit” means, in relation to an establishment—
- (i) a licence granted under section 16(4)(c) by virtue of paragraph 6,
 - (ii) a permit granted under article 35 of the Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527),
 - (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and which enables a permit to be issued in accordance with Article 8 or 9 of the Invasive Alien Species Regulation,
- (b) “relevant licence” means, in relation to a facility—
- (i) a licence granted under section 16(4)(c) by virtue of paragraph 7,
 - (ii) a licence granted under article 36(1) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527), for the purpose mentioned in article 36(2)(d) of that Order,
 - (iii) a licence granted under any provision in legislation which applies in relation to Northern Ireland and enables a licence to be issued for the keeping of an animal by a facility until the end of its natural life in accordance with Article 31(4) of the Invasive Alien Species Regulation.

Textual Amendments

- F2** Word in Sch. 9B para. 2(1)(c)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(a)(i)**
- F3** Words in Sch. 9B para. 2(2)(a) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(a)(ii)**

Commercial stocks

- 3 (1) This paragraph applies where—
- (a) a person who keeps a commercial stock of specimens of invasive alien species is charged with an offence under section 14ZC, 14A or 14AA,
 - (b) the charge relates to such a specimen, and
 - (c) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F4}Scotland], except for transportation of species to facilities in the context of eradication),
 - (iii) paragraph (e) (placing on the market),
 - (iv) paragraph (f) (using or exchanging).
- (2) It is a defence to the charge to show that—
- (a) the specimen was acquired by the person before the inclusion on the [^{F5}Scottish list of species of special concern] of the species to which the specimen belongs,

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- (b) the activity to which the charge relates was not carried out after the end of the relevant period following the inclusion on [^{F6}the Scottish list of species of special concern] to which the specimen belongs, and
 - (c) that activity is mentioned in sub-paragraph (3).
- (3) The activities referred to in sub-paragraph (2)(c) are—
- (a) sale or transfer to an establishment which holds a relevant licence or permit, provided that the conditions in paragraph (4) are met,
 - (b) a scientific or medicinal activity pursuant to a relevant licence or permit, provided that the conditions in paragraph (4) are met,
 - (c) destruction (in the case of a plant, fungus or micro-organism) or humane killing (in the case of an animal) of the specimen to exhaust the keeper’s stock, or
 - (d) sale or transfer to a non-commercial user, provided that the conditions in paragraph (4) are met.
- (4) The conditions referred to in sub-paragraph (3) are that, at all material times—
- (a) the specimen was kept and transported in contained holding, and
 - (b) appropriate measures were in place to ensure that it could not reproduce or escape.
- (5) For the purposes of sub-paragraph (2)(b), the relevant period is—
- (a) in relation to an activity mentioned in sub-paragraph (3)(a) to (c), 2 years,
 - (b) in relation to an activity mentioned in sub-paragraph (3)(d), 1 year.
- (6) In sub-paragraph (3), “relevant licence or permit” means—
- (a) for the purposes of sub-paragraph (3)(a)—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 6(b)(i) or (ii),
 - (ii) a permit granted under section 35(1)(a) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 ([S.I. 2019/527](#)),
 - (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and enables permits to be issued for research or ex-situ conservation in accordance with Article 8 of the Invasive Alien Species Regulation,
 - (b) for the purposes of sub-paragraph (3)(b)—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 6(b)(iii),
 - (ii) a permit granted under article 35(1)(b) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 ([S.I. 2019/527](#)),
 - (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and enables permits to be issued for scientific production and subsequent medicinal use in accordance with Article 8 of the Invasive Alien Species Regulation.

Textual Amendments

- F4** Word in Sch. 9B para. 3(1)(c)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(i)**
- F5** Words in Sch. 9B para. 3(2)(a) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(ii)**

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F6 Words in Sch. 9B para. 3(2)(b) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(iii)**

Non-commercial owners: receipt of commercial stocks

- 4 (1) This paragraph applies where—
- (a) a person is charged with an offence under section 14ZC or 14AA, and
 - (b) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F7}Scotland], except for the transportation of species to facilities in the context of eradication).
- (2) It is a defence to the charge to show that—
- (a) the specimen to which the charge relates was received by the person—
 - (i) from a keeper of commercial stocks of specimens of the species to which the specimen belongs, and
 - (ii) before the end of the period of one year beginning with the date on which that species was included on the [^{F8}Scottish list of species of special concern], and
 - (b) at all material times—
 - (i) the specimen was kept and transported in contained holding, and
 - (ii) appropriate measures were in place to ensure that it could not reproduce or escape.]

Textual Amendments

- F7** Word in Sch. 9B para. 4(1)(b)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(c)(i)**
- F8** Words in Sch. 9B para. 4(2)(a)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(c)(ii)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(1A)-(1D) substituted for s. 2(1A) by 2024 asp 4 s. 9(2)(a)
- s. 2(3A)(a)(ii) word repealed by 2024 asp 4 s. 9(2)(b)(i)
- s. 2(3C)(c) and word inserted by 2024 asp 4 s. 9(2)(b)(ii)
- s. 11(1)(ab)-(ad) substituted for s. 11(1)(a)(aa) by 2024 asp 4 s. 6(2)(a)
- s. 11(2)(aa)(ab) inserted by 2024 asp 4 s. 6(2)(c)(ii)
- s. 11(2A) inserted by 2024 asp 4 s. 1(6)(b)
- s. 11(3CA) inserted by 2024 asp 4 s. 6(2)(e)
- s. 12A-12G and cross-heading inserted by 2024 asp 4 s. 7(2)
- s. 16(1A)(c)(d) inserted by 2024 asp 4 s. 6(4)(a)(ii)
- s. 16A(ab) inserted by 2024 asp 4 s. 7(4)(b)
- s. 16A(1A) inserted by 2024 asp 4 s. 7(4)(a)
- s. 16A(1B) inserted by 2024 asp 4 s. 10(3)(a)
- s. 16A(5)(aa) inserted by 2024 asp 4 s. 10(3)(c)
- s. 16A(5A) inserted by 2024 asp 4 s. 10(3)(d)
- s. 16A(5B) inserted by 2024 asp 4 s. 7(4)(c)
- s. 16AA-16AF inserted by 2024 asp 4 s. 10(2)
- s. 21(ga)(gb) inserted by 2024 asp 4 s. 7(6)
- s. 26(2)(c) inserted by 2024 asp 4 s. 7(7)(a)(ii)
- s. 26(2)(d) inserted by 2024 asp 4 s. 9(3)(a)
- s. 26(2)(d)(e) inserted by 2024 asp 4 s. 10(5)(a)
- s. 26(2)(f) and word inserted by 2024 asp 4 s. 6(7)(a)
- s. 26(3)(c) inserted by 2024 asp 4 s. 7(7)(b)(ii)
- s. 26(3)(d) inserted by 2024 asp 4 s. 9(3)(b)
- s. 26(3)(d)(e) inserted by 2024 asp 4 s. 10(5)(b)
- s. 26(3)(f) and word inserted by 2024 asp 4 s. 6(7)(b)
- s. 53(3)(c)(ia) inserted by 2015 c. 20 Sch. 7 para. 2(b)
- s. 53B(4A)(4B) inserted by 2015 c. 20 Sch. 7 para. 4
- s. 53ZA inserted by 2015 c. 20 Sch. 7 para. 3
- s. 54B54C inserted by 2015 c. 20 Sch. 7 para. 5
- Sch. 2 Pt. 1B inserted by 2024 asp 4 s. 9(5)
- Sch. 13A inserted by 2015 c. 20 Sch. 7 para. 6
- Sch. 14A inserted by 2015 c. 20 Sch. 7 para. 7