



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART I

#### WILDLIFE

##### *Protection of birds [<sup>F1</sup> and prevention of poaching]*

#### 4 Exceptions to ss. 1 and 3. **E+W**

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
- anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
  - except in the case of a wild bird included in Schedule [<sup>F2</sup>ZA1 or] 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
- the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent*

*Changes to legislation: Wildlife and Countryside Act 1981, Section 4 is up to date with all changes known to be in force on or before 01 June 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*

- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F3</sup>, fisheries or inland waters].
- [<sup>F4</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection (3)(c) unless he shows that as regards that purpose, there was no other satisfactory solution.
- (5) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time for any purpose mentioned in that paragraph if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
- (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application by him for such a licence had been determined.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F2** Words in s. 4(1)(c) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c.16\)](#), [ss. 47\(4\)\(a\)](#), 107; S.I. 2006/1382, [art. 2](#)
- F3** Words in s. 4(3)(c) substituted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(1\)](#)
- F4** S. 4(4)-(6) inserted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(2\)](#)

#### Marginal Citations

- M1** 1947 c. 48.
- M2** 1948 c. 45.
- M3** 1981 c. 22.

## 4 [<sup>F5</sup>Further exceptions to s. 1] **S**

- (1) Nothing in section 1 <sup>F6</sup>... shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or

---

*Status:* There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

**Changes to legislation:** Wildlife and Countryside Act 1981, Section 4 is up to date with all changes known to be in force on or before 01 June 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

---

- (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 <sup>F7</sup> ..., a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions [<sup>F8</sup> (an unlawful act if he shows that each of the conditions specified in subsection (2A) was satisfied in relation to the carrying out of the unlawful act.)]

[<sup>F9</sup>(2A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
  - (b) that the person who carried out the lawful operation or other activity—
    - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
    - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
  - (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild bird, nest or, as the case may be, egg in relation to which the unlawful act was carried out.]
- (3) Notwithstanding anything in the provisions of section 1 <sup>F10</sup> ..., an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F3</sup>, fisheries or inland waters].

[<sup>F4</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection [<sup>F11</sup>(3)] unless he shows that as regards that purpose, there was no other satisfactory solution.

- (5) An authorised person shall not be entitled to rely on the defence provided by subsection [<sup>F12</sup>(3)] as respects any action taken at any time for any purpose mentioned in that [<sup>F13</sup>subsection] if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
- (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application by him for such a licence had been determined.

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent*

*Changes to legislation: Wildlife and Countryside Act 1981, Section 4 is up to date with all changes known to be in force on or before 01 June 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*

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection [F14(3)] as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F3** Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**
- F4** S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**
- F5** S. 4 heading substituted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(a), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F6** Words in s. 4(1) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(b), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F7** Words in s. 4(2) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F8** Words in s. 4(2)(c) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(2)**; S.S.I. 2004/407, **art. 2**
- F9** S. 4(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(3)**; S.S.I. 2004/407, **art. 2**
- F10** Words in s. 4(3) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F11** Words in s. 4(4) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(4)**; S.S.I. 2004/407, **art. 2**
- F12** Words in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(5)(a)**; S.S.I. 2004/407, **art. 2**
- F13** Word in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(5)(b)**; S.S.I. 2004/407, **art. 2**
- F14** Words in s. 4(6) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(6)**; S.S.I. 2004/407, **art. 2**

#### Marginal Citations

- M1** 1947 c. 48.
- M2** 1948 c. 45.
- M3** 1981 c. 22.

**Status:**

There are multiple versions of this provision on screen. These apply to different geographical extents.

**Skip to:**

- E+W - England and Wales extent
- S - Scotland extent

**Changes to legislation:**

Wildlife and Countryside Act 1981, Section 4 is up to date with all changes known to be in force on or before 01 June 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.

View outstanding changes

**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