

Protection of Badgers Act 1992

1992 CHAPTER 51

An Act to consolidate the Badgers Act 1973, the Badgers Act 1991 and the Badgers (Further Protection) Act 1991

[16th July 1992]

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:—

Offences

~~1 Taking, injuring or killing badgers.~~

~~(1) A person is guilty of an offence if, except as permitted by or under this Act, he wilfully kills, injures or takes, or attempts to kill, injure or take, a badger.~~

(2) *If, in any proceedings for an offence under subsection (1) above consisting of attempting to kill, injure or take a badger, there is evidence from which it could reasonably be concluded that at the material time the accused was attempting to kill, injure or take a badger, he shall be presumed to have been attempting to kill, injure or take a badger unless the contrary is shown.*

(3) A person is guilty of an offence if, except as permitted by or under this Act, he has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger.

(4) A person is not guilty of an offence under subsection (3) above if he shows that—

- (a) the badger had not been killed, or had been killed otherwise than in contravention of the provisions of this Act or of the Badgers Act 1973; or
- (b) the badger or other thing in his possession or control had been sold (whether to him or any other person) and, at the time of the purchase, the purchaser had had no reason to believe that the badger had been killed in contravention of any of those provisions.

(5) If a person is found committing an offence under this section on any land it shall be lawful for the owner or occupier of the land, or any servant of the owner or occupier, or any constable, to require that ~~person forthwith to quit the land and also to give his name and address; and if that person on being so~~

~~Specified date: 16 October 1992: see s 15(3).~~

Amendment

In para (b) word “unlawful” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, para 26(1), (6)(a).

Date in force: 1 October 2004: see SSI 2004/407, art 2(b).

In para (b) words “and releasing it when no longer disabled” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 50, Sch 6, para 26(1), (6)(b).

~~Date in force: 1 October 2004: see SSI 2004/407, art 2(b).~~

10 Licences

(1) A licence may be granted to any person by [the appropriate *conservation body*] [authority] authorising him, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence—

- (a) for scientific or educational purposes or for the conservation of badgers—
 - (i) to kill or take, within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified; or
 - (ii) to interfere with any badger sett within an area specified in the licence by any means so specified;
- (b) for the purpose of any zoological gardens or collection specified in the licence, to take within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified;
- (c) for the purpose of ringing and marking, to take badgers within an area specified in the licence, to mark such badgers or to attach to them any ring, tag or other marking device as specified in the licence;
- (d) for the purpose of any development as defined in section 55(1) of the Town and Country Planning Act 1990 or, as respects Scotland, [section 26(1) of the Town and Country Planning (Scotland) Act 1997], to interfere with a badger sett [to kill or take badgers in England, or to interfere with a badger sett,] within an area specified in the licence by any means so specified;
- (e) for the purpose of the preservation, or archaeological investigation, of a monument scheduled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 [or section 3 of the Historic Environment (Wales) Act 2023], to interfere with a badger sett within an area specified in the licence by any means so specified;

- (f) for the purpose of investigating whether any offence has been committed or gathering evidence in connection with proceedings before any court, to interfere with a badger sett within an area specified in the licence by any means so specified;

[(fa) in England, for the purpose of preserving public health or safety or for reasons of overriding public interest, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified].

[(1A) In the case of a licence granted to Natural England to facilitate the carrying out of any conservation measures within the meaning of Part 3 of the Planning and Infrastructure Act 2025, the reference in subsection (1) to the appropriate conservation body is to be read as a reference to the Secretary of State.]

(2) *A licence may be granted to any person by the appropriate Minister authorising him, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence—*

- (a) [(g)] for the purpose of preventing the spread of disease, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;

- (b) [(h)] for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;

- (c) [(i)] for the purpose of any agricultural or forestry operation, to interfere with a badger sett within an area specified in the licence by any means so specified;

- (d) [(j)] for the purpose of any operation (whether by virtue of the Land Drainage Act 1991 or otherwise) to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of any land, including works for the purpose of defence against sea water or tidal water, to interfere with a badger sett [to kill or take badgers in England, or to interfere with a badger sett,] within an area specified in the licence by any means so specified

[(e) in England, for the purpose of preserving public health or safety or for reasons of overriding public interest, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified].

[(2A) In the case of a licence that, by virtue of paragraph 6 of Schedule 3 to the Planning and Infrastructure Act 2025, is treated as having been granted to a developer under subsection (2)(d) or (e), the reference in subsection (2) to the appropriate Minister is to be read as a reference to Natural England.]

(3) A licence may be granted to any person either by [the appropriate conservation body] or the appropriate Minister authorising that person, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence,

[(k)] to interfere with a badger sett within an area specified in the licence by any means so specified for the purpose of controlling foxes in order to protect livestock, game or wild life.

(4) In this section "[the appropriate conservation body]" means, in relation to a licence for an area—

- (a) in England, [Natural England];
- (b) in Wales, [the Natural Resources Body for Wales]; and
- (c) in Scotland, Scottish Natural Heritage.

[(4) In this section "the appropriate authority" means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 10A below.]

(5) In this section "the appropriate Minister" means in relation to a licence for an area—

- (a) in England, the [Secretary of State]; and
- (b) in Wales or in Scotland, the Secretary of State.

(6) The appropriate Minister shall from time to time consult with [the appropriate conservation body] as to the exercise of his functions under subsection (2)(b), (c) or (d) [~~.(d) or (e)~~] above and shall not grant a licence of any description unless he has been advised by [the appropriate conservation body] as to the circumstances in which, in that [body's] opinion, licences of that description should be granted.

[(6) The Scottish Ministers must consult Scottish Natural Heritage before granting a licence under subsection (1) above.]

(7) ...

(8) A licence granted under this section may be [modified or] revoked at any time by the authority by whom it was granted, and without prejudice to any other liability to a penalty which he may have incurred under this or any other Act, a person who contravenes or fails to comply with any condition imposed on the grant of a licence under this section is guilty of an offence.

[(8A) A licence granted under this section in relation to an area in England—

- (a) may be, to any degree, general or specific;

(b) may be granted either to persons of a class or to a particular person;

(c) may be modified at any time by the authority by whom it was granted;

(d) is to be valid for the period specified in the licence.

(8B) A fee may be charged for granting a licence in relation to an area in England under this section.]

(9) A licence under this section shall not be unreasonably withheld or revoked.

[(9A) Natural England or the Secretary of State must not grant a licence under this section in relation to an area in England unless satisfied—

(a) that there is no other satisfactory solution, and

(b) that the grant of the licence is not detrimental to the survival of any population of badgers.]

(10) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911 or section 7(b) of the Protection of Animals (Scotland) Act 1912 (each of which restricts the placing on land of poison and poisonous substances) to show that—

(a) the act alleged to constitute the offence was done under the authority of a licence granted under *subsection (2)(a)* [subsection (1)(g)] above; and

(b) any conditions specified in the licence were complied with.

NOTES

Derivation

Sub-s (1)(a) derived from the Badgers Act 1973, s 9(1)(a) as amended by the Badgers Act 1991, s 4(a); sub-s (1)(b), (c) derived from the Badgers Act 1973, s 9(1)(b), (c); sub-s (1)(d)–(f) derived from the Badgers Act 1973, s 9(1)(f), (j), (i), respectively, as inserted by the Badgers Act 1991, s 4(d); sub-s (2)(a) derived from the Badgers Act 1973, s 9(1)(d) as amended by the Badgers Act 1991, s 4(b); sub-s (2)(b) derived from the Badgers Act 1973, s 9(1)(e) as inserted by the Wildlife and Countryside Act 1981, s 12, Sch 7, para 10(2) and amended by the Badgers Act 1991, s 4(c); sub-s 2(c) derived from the Badgers Act 1973, s 9(1)(g), as inserted by the Badgers Act 1991, s 4(d); sub-s 2(d) derived from the Badgers Act 1973, s 9(1)(h) as inserted by the Badgers Act 1991, s 4(d); sub-s (3) derived from the Badgers Act 1973, s 9(1)(k), 2(c) as inserted, respectively, by the Badgers Act 1991, s 4(d),(g); sub-s (4) derived from the Badgers Act 1973, s 9(2)(a) as amended by the Environmental Protection Act 1990, s 132(1)(a), Sch 9, para 6(2) and the Badgers Act 1991, s 4(e); sub-s (5) derived from the Badgers Act 1973, s 9(2)(b) as amended by the Wildlife and Countryside Act 1981, s 12, Sch 7, para

10(3) and the Badgers Act 1991, s 4(f); sub-s (6) derived from the Badgers Act 1973, s 9(5) as inserted by the Wildlife and Countryside Act 1981, s 12, Sch 7, para 10(4) and amended by the Environmental Protection Act 1990, s 132, Sch 9, para 6(3) and the Badgers Act 1991, s 4(h); sub-s (7) derived from the Badgers Act 1973, s (4A) as inserted by the Natural Heritage (Scotland) Act 1991, s 4, Sch 2, para 5(3); sub-s (8) derived from the Badgers Act 1973, s 9(3); sub-s (9) derived from the Badgers Act 1973, s 9(6) as inserted by the Badgers Act 1991, s 4(i); sub-s (10) derived from the Badgers Act 1973, s 9(4) as inserted by the Conservation of Wild Creatures and Wild Plants Act 1975, s 16.

Initial Commencement

Specified date

Specified date: 16 October 1992: see s 15(3).

Amendment

Sub-s (1): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (1): words “conservation body” in italics repealed and subsequent word in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(a).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (1): in para (d) words “section 26(1) of the Town and Country Planning (Scotland) Act 1997” in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 53.

Sub-s (1): in para (d) words from “to kill or” to “a badger sett,” in square brackets substituted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (2)(a).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (1): in para (e) words “or section 3 of the Historic Environment (Wales) Act 2023” in square brackets inserted by the Historic Environment (Wales) Act 2023, s 211(1), Sch 13, para 164.

Date in force: 4 November 2024: see SI 2024/860, art 3(d).

Sub-s (1): para (fa) inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (2)(b).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (1A): inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (3).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (2): words from the beginning to “specified in the licence—” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(b)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (2): paras (a)–(d) redesignated, as sub-s (1)(g)–(j), by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(b)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (2): in para (d) words from “to kill or” to “a badger sett,” in square brackets substituted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (4)(a).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (2): para (e) inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (2)(b).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (2A): inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (5).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (3): words from the beginning to “specified in the licence,” repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(c)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (3): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (3): reference to “(k)” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(c)(ii).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (4): substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(d).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (4): words “the appropriate conservation body” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): in para (a) words “Natural England” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(b).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (4): in para (b) words “the Natural Resources Body for Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, para 341.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(e).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (5): in para (a) words “Secretary of State” in square brackets substituted by SI 2002/794, art 5(1), Sch 1, para 35.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Sub-s (6): substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(f).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (6): words “the appropriate conservation body” in square brackets in both places they occur substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(a).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (6): words “, (d) or (e)” in square brackets substituted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (6).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (6): word “body’s” in square brackets substituted by the Natural Environment and Rural Communities Act 2006, s 105(1), Sch 11, Pt 1, para 137(c).

Date in force: 1 October 2006: see SI 2006/2541, art 2.

Sub-s (7): repealed by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(g).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-s (8): words “modified or” in square brackets inserted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(h).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Sub-ss (8A), (8B): inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, Sch 5, Pt 2, para 44(1), (7).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (9A): inserted, in relation to England and Wales, by the Planning and Infrastructure Act 2025, s 96, Sch 5, Pt 2, para 44(1), (8).

Date in force: to be appointed: see the Planning and Infrastructure Act 2025, s 118(3).

Sub-s (10): in para (a) words “subsection (2)(a)” in italics repealed and subsequent words in square brackets substituted by the Wildlife and Natural Environment (Scotland) Act 2011, s 33(1), (6)(i).

Date in force: 29 June 2011: see SSI 2011/279, art 2(1)(m).

Transfer of Functions

Functions of the appropriate Minister, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

~~[10A Delegation of licence-granting power: Scotland]~~