# 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:—

**Modifications etc. (not altering text)**
**C1** Act: functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**Commencement Information**
**I1** Act wholly in force at 16. 10. 1992; see s.15(3).

*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 **[**[F1], or attempts to kill, injure or take,**]** a badger.

(2) **[**[F2]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—

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(a) the badger had not been killed, or had been killed otherwise than in contravention of the provisions of this Act or of the [M1]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 required wilfully remains on the land or refuses to give his full name or address he is guilty of an offence.

**[**[F3](6) A person is guilty of an offence if, except as permitted by or under this Act, he knowingly causes or permits to be done an act which is made unlawful by subsection (1) or (3) above.**]**

**Textual Amendments**

**F1** Words in s. 1(1) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(2)(a)**; S.S.I. 2004/407, art. 2(b)

**F2** S. 1(2) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(2)(b)**; S.S.I. 2004/407, art. 2(b)

**F3** S. 1(6) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**Marginal Citations**

**M1** 1973 c. 57 .

## 2 Cruelty.

(1) A person is guilty of an offence if—

(a) he cruelly ill-treats a badger;

(b) he uses any badger tongs in the course of killing or taking, or attempting to kill or take, a badger;

(c) except as permitted by or under this Act, he digs for a badger; or

(d) he uses for the purpose of killing or taking a badger any firearm other than a smooth bore weapon of not less than 20 bore or a rifle using ammunition having a muzzle energy not less than 160 footpounds and a bullet weighing not less than 38 grains.

(2) If in any proceedings for an offence under subsection (1)(c) above there is evidence from which it could reasonably be concluded that at the material time the accused was digging for a badger he shall be presumed to have been digging for a badger unless the contrary is shown.

**[**[F4](3) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.**]**

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**Textual Amendments**

**F4** S. 2(3) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

## 3 Interfering with badger setts.

**[**F5(1)**]** A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—

(a) damaging a badger sett or any part of it;

(b) destroying a badger sett;

(c) obstructing access to, or any entrance of, a badger sett;

(d) causing a dog to enter a badger sett; or

(e) disturbing a badger when it is occupying a badger sett,

intending to do any of those things or being reckless as to whether his actions would have any of those consequences.

**[**F6(2) A person is guilty of an offence if, except as permitted by or under this Act, he knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.**]**

**Textual Amendments**

**F5** S. 3 renumbered as s. 3(1) (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(3)(a)**; S.S.I. 2004/407, art. 2(b)

**F6** S. 3(2) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(3)(b)**; S.S.I. 2004/407, art. 2(b)

## 4 Selling and possession of live badgers.

**[**F7(1)**]** A person is guilty of an offence if, except as permitted by or under this Act, he sells a live badger or offers one for sale or has a live badger in his possession or under his control.

**[**F8(2) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.**]**

**Textual Amendments**

**F7** S. 4 renumbered as s. 4(1) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F8** S. 4(2) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

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## 5 Marking and ringing.

**[**F9(1)**]** A person is guilty of an offence if, except as authorised by a licence under section 10 below, he marks, or attaches any ring, tag or other marking device to, a badger other than one which is lawfully in his possession by virtue of such a licence.

**[**F10(2) A person is guilty of an offence if, except as permitted by or under this Act, the person knowingly causes or permits to be done an act which is made unlawful by subsection (1) above.**]**

**Textual Amendments**

**F9** S. 5 renumbered as s. 5(1) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(5)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F10** S. 5(2) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(5)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

*Exceptions and licences*

## 6 General exceptions.

A person is not guilty of an offence under this Act by reason only of—

(a) taking or attempting to take a badger which has been disabled otherwise than by his **[**F11unlawful**]** act and is taken or to be taken solely for the purpose of tending it **[**F12and releasing it when no longer disabled**]**;

(b) killing or attempting to kill a badger which **[**F13appears to be so seriously injured or in such a condition that to kill it would be an act of mercy**][**F13has been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of it recovering**]**;

(c) unavoidably killing or injuring a badger as an incidental result of a lawful action;

(d) doing anything which is authorised under the M2Animals (Scientific Procedures) Act 1986.

**Textual Amendments**

**F11** Word in S. 6(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(4)(a)(i)**; S.S.I. 2004/407, art. 2(b)

**F12** Words in S. 6(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(4)(a)(ii)**; S.S.I. 2004/407, art. 2(b)

**F13** Words in S. 6(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(4)(b)**; S.S.I. 2004/407, art. 2(b)

**Marginal Citations**

**M2** 1986 c. 14.

## 7 Exceptions from s. 1.

(1) Subject to subsection (2) below, a person is not guilty of an offence under section 1(1) above by reason of—

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(a) killing or taking, or attempting to kill or take, a badger; or

(b) injuring a badger in the course of taking it or attempting to kill or take it,

if he shows that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property.

(2) The defence provided by subsection (1) above does not apply in relation to any action taken at any time if it had become apparent, before that time, that the action would prove necessary for the purpose there mentioned and either—

(a) a licence under section 10 below authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or

(b) an application for such a licence had been determined.

## 8 Exceptions from s. 3.

(1) Subject to subsection (2) below, a person is not guilty of an offence under section **[**F14**]**3**[**F14** ]**3(1) or (2)**]** above if he shows that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property.

(2) Subsection (2) of section 7 above applies to the defence in subsection (1) above as it applies to the defence in subsection (1) of that section.

(3) A person is not guilty of an offence under section **[**F15**]**3(a)**][**F15**]**3(1)(a)**]**, (c) or (e) above **[**F16 or an offence under section 3(2) above relating to an offence under section 3(1)(a), (c) or (e) above **]**if he shows that his action was the incidental result of a lawful operation and could not reasonably have been avoided.

**[**F17(4) **[**F18A person is not guilty of an offence under section 3(a), (c) or (e) above by reason of obstructing any entrance of a badger sett for the purpose of hunting foxes with hounds if he—

(a) takes no action other than obstructing such entrances;

(b) does not dig into the tops or sides of the entrances;

(c) complies with subsection (5) below as to the materials used for obstructing the entrances and with subsection (6) below as to how and when they are to be placed and removed; and

(d) is acting with the authority of the owner or occupier of the land and the authority of a recognised Hunt.**]**

(5) **[**F18The materials used shall be only—

(a) untainted straw or hay, or leaf-litter, bracken or loose soil; or

(b) a bundle of sticks or faggots, or paper sacks either empty or filled with untainted straw or hay or leaf-litter, bracken or loose soil.**]**

(6) **[**F18The materials shall not be packed hard into the entrances and—

(a) if they are of the kind mentioned in paragraph (a) of subsection (5) above, they shall not be placed in the entrances except on the day of the hunt or after midday on the preceding day;

(b) if they are of the kind mentioned in paragraph (b) of that subsection, they shall not be placed in the entrances except on the day of the hunt and shall be removed on the same day.**]**

(7) **[**F18A person is not guilty of an offence under section 3(a), (c) or (e) above by reason of his hounds marking at a badger sett provided they are withdrawn as soon as reasonably practicable.**]**

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(8) **[**F18Each recognised Hunt shall keep a register of the persons authorised to act under subsection (4) above.**]**

(9) **[**F18 In this section " recognised Hunt " means a Hunt recognised by the Masters of Fox Hounds Association, the Association of Masters of Harriers and Beagles or the Central Committee of Fell Packs.**]]**

**Textual Amendments**

**F14** Words in s. 8(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(a)**; S.S.I. 2004/407, art. 2(b)

**F15** Word in s. 8(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(b)(i)**; S.S.I. 2004/407, art. 2(b)

**F16** Words in s. 8(3) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(b)(ii)**; S.S.I. 2004/407, art. 2(b)

**F17** S. 8(4)-(9) repealed (S.) (1.8.2002) by 2002 asp 6, s. 11, **Sch. para. 5**; S.S.I. 2002/181, **art. 2**

**F18** S. 8(4)-(9) repealed (E.W.) (18.2.2005) by Hunting Act 2004 (c. 37), s. 15, Sch. 2 para. 4, **Sch. 3** (with s. 12)

## 9 Exceptions from s. 4.

A person is not guilty of an offence under section 4 above by reason of having a live badger in his possession or under his control if—

(a) it is in his possession or under his control, as the case may be, in the course of his business as a carrier; or

(b) it has been disabled otherwise than by his **[**F19unlawful**]** act and taken by him solely for the purpose of tending it **[**F20and releasing it when no longer disabled**]** and it is necessary for that purpose for it to remain in his possession or under his control, as the case may be.

**Textual Amendments**

**F19** Word in S. 9(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(6)(a)**; S.S.I. 2004/407, art. 2(b)

**F20** Words in S. 9(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(6)(b)**; S.S.I. 2004/407, art. 2(b)

## 10 Licences. E+W

(1) A licence may be granted to any person by **[**F21the appropriate conservation body**]** 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;

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(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 [M3]Town and Country Planning Act 1990 or, as respects Scotland, **[**[F22]section 26(1) of the Town and Country Planning (Scotland) Act 1997**]**, 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 [M4]Ancient Monuments and Archaeological Areas Act 1979 **[**[F23]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.

(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) 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) 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) 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) for the purpose of any operation (whether by virtue of the [M5]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 within an area specified in the licence by any means so specified.

(3) A licence may be granted to any person either by **[**[F24]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, 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.

**[**[F25](4) In this section "**[**[F26]the appropriate conservation body**]**" means, in relation to a licence for an area—

(b) in Wales, **[**[F28]the Natural Resources Body for Wales**]]**.

**[**[F25](4) In this section â€œthe 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—

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(a) in England, the **[**[F29]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 **[**[F30]the appropriate conservation body**]** as to the exercise of his functions under subsection (2)(b), (c) or (d) above and shall not grant a licence of any description unless he has been advised by **[**[F30]the appropriate conservation body**]** as to the circumstances in which, in that **[**[F31]body's**]** opinion, licences of that description should be granted.

(7) In relation to Scottish Natural Heritage subsection (6) above shall have effect with the omission of the reference to subsection (2)(c) and (d).

(8) A licence granted under this section may be 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.

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

(10) It shall be a defence in proceedings for an offence under section 8(b) of the [M6]Protection of Animals Act 1911 or section 7(b) of the [M7]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) above; and
(b) any conditions specified in the licence were complied with.

**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**

**F21** Words in s. 10(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)
**F22** Words in s. 10(1)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 53**
**F23** Words in s. 10(1)(e) inserted (W.) (4.11.2024) by Historic Environment (Wales) Act 2023 (asc 3), s. 212(2), **Sch. 13 para. 164** (with Sch. 14 paras. 1-3); S.I. 2024/860, art. 3(d)
**F24** Words in s. 10(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)
**F25** S. 10(4) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
**F26** Words in s. 10(4) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)
**F27** Words in s. 10(4)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(b)**; S.I. 2006/2541, art. 2 (with Sch.)
**F28** Words in s. 10(4)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 341** (with Sch. 7)
**F29** Words in s. 10(5)(a) substituted (27.3.2002) by S.I. 2002/794 , art. 5(1), **Sch. 1 para. 35** (with art. 6)
**F30** Words in s. 10(6) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)

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**F31** Word in s. 10(6) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(c)**; S.I. 2006/2541, art. 2 (with Sch.)

**Marginal Citations**

**M3** 1990 c. 8 .
**M4** 1979 c. 46 .
**M5** 1991 c. 59 .
**M6** 1911 c. 27 .
**M7** 1912 c. 14 .

## 10 Licences. S

(1) A licence may be granted to any person by **[**F64the appropriate **[**F65authority**]]** 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 M10Town and Country Planning Act 1990 or, as respects Scotland, **[**F66section 26(1) of the Town and Country Planning (Scotland) Act 1997**]**, 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 M11Ancient Monuments and Archaeological Areas Act 1979, 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.

(2) F67...

**[**F68(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;

**[**F68(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;

**[**F68(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;

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**[**F68(j)**]** for the purpose of any operation (whether by virtue of the M12Land 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 within an area specified in the licence by any means so specified.

(3) F69...

**[**F70(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.

**[**F71(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.**]**

F72(5) . . . . . .

**[**F73(6) The Scottish Ministers must consult Scottish Natural Heritage before granting a licence under subsection (1) above.**]**

F74(7) . . . . . .

(8) A licence granted under this section may be **[**F75modified 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.

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

(10) It shall be a defence in proceedings for an offence under section 8(b) of the M13Protection of Animals Act 1911 or section 7(b) of the M14Protection 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 **[**F76subsection (1)(g)**]** above; and

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

**Extent Information**

**E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

**F64** Words in s. 10(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)

**F65** Word in s. 10(1) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F66** Words in s. 10(1)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 53**

**F67** Words in s. 10(2) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F68** S. 10(2)(a)-(d) renumbered as s. 10(1)(g)-(j) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(m)**

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**F69** Words in s. 10(3) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F70** Words in s. 10(3) renumbered as s. 10(1)(k) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F71** S. 10(4) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F72** S. 10(5) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F73** S. 10(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(f)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F74** S. 10(7) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(g)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F75** Words in s. 10(8) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(h)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F76** Words in s. 10(10) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(6)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**Marginal Citations**

**M10** 1990 c. 8 .

**M11** 1979 c. 46 .

**M12** 1991 c. 59 .

**M13** 1911 c. 27 .

**M14** 1912 c. 14 .

### [F32 10A Delegation of licence-granting power: Scotland

(1) The Scottish Ministers may delegate their functions in relation to licences under section 10 above to—

(a) Scottish Natural Heritage; or

(b) a local authority (but only in relation to the purpose mentioned in section 10(1)(d)).

(2) A delegation may be, to any degree, general or specific and may in particular relate to—

(a) a specific badger or badger sett;

(b) a particular licence or type of licence;

(c) a particular area.

(3) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type that were granted before the delegation.

(4) A delegation to—

(a) Scottish Natural Heritage under subsection (1)(a) above is to be made by written direction;

(b) a local authority under subsection (1)(b) above is to be made by order made by statutory instrument.

(5) A local authority which is delegated a function under subsection (1)(b) above must, before granting or modifying a licence, consult Scottish Natural Heritage.

(6) The Scottish Ministers may modify or revoke a direction under subsection (4)(a) above.

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(7) Where a direction or order under subsection (4) above is revoked, any existing licence granted under the direction or order continues to have effect (unless the revoking direction or order provides otherwise).

(8) A statutory instrument containing an order under subsection (4)(b) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(9) Before making an order under subsection (4)(b) above, the Scottish Ministers must consult—

(a) the local authority to which functions are to be delegated under the order;

(b) Scottish Natural Heritage; and

(c) any other persons the Scottish Ministers consider are affected by the making of the order.

(10) The Scottish Ministers must give consideration to any proposals for the making by them of an order under subsection (4)(b) above with respect to any area which may be submitted to them by a local authority whose area includes that area.**]**

**Textual Amendments**

**F32** S. 10A inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(7)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

*Enforcement and penalties*

## 11 Powers of constables. E+W

Where a constable has reasonable grounds for suspecting that a person is committing an offence under the foregoing provisions of this Act, or has committed an offence under those provisions or those of the [M8]Badgers Act 1973 and that evidence of the commission of the offence is to be found on that person or any vehicle or article he may have with him, the constable may—

(a) without warrant stop and search that person and any vehicle or article he may have with him;

(b) seize and detain for the purposes of proceedings under any of those provisions anything which may be evidence of the commission of the offence or may be liable to be forfeited under section 12(4) below;

(c) in Scotland arrest that person without warrant if he fails to give his full name and address to the constable's satisfaction.

**Extent Information**

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

**Marginal Citations**

**M8** 1973 c. 57.

***Changes to legislation:** Protection of Badgers Act 1992 is up to date with all changes known to be in force on or before 15 January 2026. 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*

## [F77 11 Powers of constables. S

(1) A constable who suspects with reasonable cause that any person is committing or has committed an offence under this Act may, without warrant—

(a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;

(b) search for, search or examine any thing which that person may then be using or may have used, or may have or have had in the person's possession, if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found in or on that thing;

F78(c) . . . . . .

(d) 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 12(4) below.

(2) A constable who suspects with reasonable cause that any person is committing or has committed an offence under this Act may, for the purpose of exercising the powers conferred by subsection (1) above, enter any land other than a dwelling or lockfast premises.

(3) If a sheriff or justice of the peace is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that an offence under this Act has been committed and that evidence of the offence may be found on any premises, the sheriff or justice may grant a warrant authorising a constable to enter those premises, if necessary using reasonable force, and search them for the purposes of obtaining that evidence.

(4) A warrant under subsection (3) above continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

(5) A constable authorised by virtue of this section to enter any land must, if required to do so by the occupier or anyone acting on the occupier's behalf, produce evidence of the constable's authority.

(6) A constable who enters any land in the exercise of a power conferred by this section—

(a) may—

(i) be accompanied by any other persons; and

(ii) take any machinery, other equipment or materials on to the land,

for the purpose of assisting the constable in the exercise of that power;

(b) may take samples of any articles or substances found there and remove the samples from the land.

(7) A power specified in subsection (6)(a) or (b) above which is exercisable under a warrant is subject to the terms of the warrant.

(8) A constable leaving any land which has been entered in exercise of a power conferred by subsection (2) above or by a warrant under subsection (3) above, being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.**]**

**Extent Information**

**E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Changes to legislation:** *Protection of Badgers Act 1992 is up to date with all changes known to be in force on or before 15 January 2026. 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*

**Textual Amendments**

**F77** S. 11 substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **sch. 6 para. 26(7)**; S.S.I. 2004/407, art. 2(b)

**F78** S. 11(1)(c) repealed (S.) (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 9**; S.S.I. 2017/345, art. 3, sch.

## [F33 11A Attempts

(1) A person who attempts to commit an offence under this Act is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) A person who is in possession, for the purposes of committing an offence under this Act, of anything capable of being used for committing the offence is guilty of the offence and is liable to be proceeded against and punished accordingly.

(3) If, in any proceedings for an offence under section 1(1) above [F34or section 1(6) above] consisting of [F35or involving] an attempt to kill, injure or take a badger, there is evidence from which it could reasonably be concluded that at the material time [F36a person] 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.]

**Textual Amendments**

**F33** S. 11A inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6) , s. 59(2) , **Sch. 6 para. 26(8)** ; S.S.I. 2004/407 , art. 2(b)

**F34** Words in s. 11A(3) inserted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6) , **ss. 33(8)(a)** , 43(1) (with s. 41(1) ); S.S.I. 2011/279 , art. 2(1)(m)

**F35** Words in s. 11A(3) inserted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6) , **ss. 33(8)(b)** , 43(1) (with s. 41(1) ); S.S.I. 2011/279 , art. 2(1)(m)

**F36** Words in s. 11A(3) substituted (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6) , **ss. 33(8)(c)** , 43(1) (with s. 41(1) ); S.S.I. 2011/279 , art. 2(1)(m)

## 12 Penalties and forfeiture.

(1) A person guilty of an offence under [F37section 1(1) or (3), [F382 or 3 above][F382(1)(d), 3(1)(a) to (c) or (e) above or under section 3(2) above][F37a provision mentioned in subsection (1ZA) below] (in relation to an act made unlawful by section 3(1)(a) to (c) or (e) above)] is liable on summary conviction to imprisonment for a term not exceeding [F39six][F39twelve] months or a fine not exceeding [F40level 5 on the standard scale][F40£40,000] or both; and a person guilty of an offence under section [F414,] 5 [F42(1) or (2)] or 10(8) above or 13(7) below is liable on summary conviction to a fine not exceeding [F43that level][F43level 5 on the standard scale].

[F44(1ZA) The provisions referred to in subsection (1) above are—

(a) section 2(1)(d) above or section 2(3) above (in relation to an act made unlawful by section 2(1)(d) above);][F45...

F45(b) . . . . . .

[F46(1A) A person guilty of an offence under [F47a provision mentioned in subsection (1B) below] is liable—

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(a) on summary conviction to imprisonment for a term not exceeding **[**F48 12**]** months or a fine not exceeding **[**F49 the statutory maximum**]** or both,

(b) on conviction on indictment to imprisonment for a term not exceeding three years or to a fine or both.**]**

**[**F50 (1B) The provisions referred in subsection (1A) above are—

(a) **[**F51 section 1(3) and (6) (in relation to an act made unlawful by section 1(3)),**]**

F52 (b) . . . . . .

F52 (c) . . . . . .

(d) section 4(1) and (2) above.**]**

**[**F53 (1C) A person guilty of an offence under a provision mentioned in subsection (1D) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 or both,

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.

(1D) The provisions referred to in subsection (1C) are—

(a) section 1(1) and (6) (in relation to an act made unlawful by section 1(1)),

(b) section 2(1)(a) to (c) and (3) (in relation to an act made unlawful by section 2(1)(a) to (c)),

(c) section 3.**]**

(2) Where an offence was committed in respect of more than one badger the maximum fine which may be imposed under subsection (1) **[**F54, (1A)(a) or (1C)(a)**]** above shall be determined as if the person convicted had been convicted of a separate offence in respect of each badger.

(3) A person guilty of an offence under section 1(5) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The court by which a person is convicted of an offence under this Act shall order the forfeiture of any badger or badger skin in respect of which the offence was committed and may, if they think fit, order the forfeiture of any weapon or article in respect of or by means of which the offence was committed.

**Textual Amendments**

**F37** Words in s. 12(1) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(9)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F38** Words in s. 12(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(9)(a)(i)**; S.S.I. 2004/407, art. 2(b)

**F39** Word in s. 12(1) substituted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(a)(i)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F40** Sum in S. 12(1) substituted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(a)(ii)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F41** Word in s. 12(1) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(9)(a)(ii)**; S.S.I. 2004/407, art. 2(b)

**F42** Words in s. 12(1) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(9)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

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**F43** Words in s. 12(1) substituted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(a)(iii)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F44** S. 12(1ZA) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(9)(b)** , 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F45** S. 12(1ZA)(b) and preceding word repealed (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(b)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F46** S. 12(1A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(9)(b)**; S.S.I. 2004/407, art. 2(b)

**F47** Words in s. 12(1A) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(9)(c)(i)** , 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F48** Word in s. 12(1A)(a) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **s. 33(9)(c)(ii)**(A)43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F49** Words in s. 12(1A)(a) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **s. 33(9)(c)(ii)**(B)43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F50** S. 12(1B) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(9)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F51** S. 12(1B)(a) substituted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(c)(i)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F52** S. 12(1B)(b)(c) repealed (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(c)(ii)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F53** S. 12(1C)(1D) inserted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(d)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F54** Words in s. 12(2) substituted (S.) (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(2)(e)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

### [F55 12ZA Time limit for bringing summary proceedings (England and Wales)

(1) Proceedings in England and Wales for a summary offence under this Act may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]

**Textual Amendments**

**F55** S. 12ZA inserted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16) , s. 107 , **Sch. 6 para. 6** ; S.I. 2006/1382 , art. 2

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### [F56 12A Time limit for bringing summary proceedings

(1) Summary proceedings for an offence under **[**F57 a provision mentioned in subsection (1A)**]** may, subject to subsection (2) below, be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.

F58 **[** (1A) The provisions referred to in subsection (1) are—

(a) section 1(3), (5) and (6) (in relation to an act made unlawful by section 1(3)),

(b) section 2(1)(d) and (3) (in relation to an act made unlawful by section 2(1)(d)),

(c) section 3,

(d) section 4,

(e) section 5,

(f) section 10(8).**]**

(2) No such proceedings may be brought more than 3 years—

(a) after the commission of the offence, or

(b) in the case of a continuous contravention, after the last date on which the offence was committed.

(3) A certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed is to be treated as being so signed unless the contrary is proved.**]**

**Textual Amendments**

**F56** Ss. 12A, 12B inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6) , s. 59(2) , **Sch. 6 para. 26(10)** ; S.S.I. 2004/407 , art. 2(b)

**F57** Words in s. 12A(1) substituted (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(3)(a)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

**F58** S. 12A(1A) inserted (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), **ss. 8(3)(b)**, 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

### [F56 12B Offences by bodies corporate etc.

(1) Where an offence under this Act committed—

(a) by a body corporate, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is a director, manager or secretary of the body corporate, or

(ii) purports to act in any such capacity,

(b) by a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is a partner, or

(ii) purports to act in that capacity,

(c) by an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—

(i) is concerned in the management or control of the association, or

(ii) purports to act in the capacity of a person so concerned,

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the individual (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) Any penalty imposed on a body corporate, Scottish partnership or, as the case may be, unincorporated association on conviction of an offence under this Act is to be recovered by civil diligence in accordance with section 221 of the Criminal Procedure (Scotland) Act 1995 (c. 46).**]**

**Textual Amendments**

**F56** Ss. 12A, 12B inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6) , s. 59(2) , **Sch. 6 para. 26(10)** ; S.S.I. 2004/407 , art. 2(b)

## 13 Powers of court where dog used or present at commission of offence.

(1) Where a dog has been used in or was present at the commission of an offence under sections 1(1) **[**F59or (6) (in relation to an act made unlawful by section 1(1)) **]**, 2 or **[**F60**3][**F60**3(1) or (2)]** above, the court, on convicting the offender, 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.

(2) Where the court makes an order under subsection (1)(a) above, 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.

(3) Where an order under subsection (1)(a) above 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.

(4) A dog shall not be destroyed pursuant to an order under subsection (1)(a) above—

(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 he does not intend to appeal against it.

(5) A person who is disqualified for having custody of a dog by virtue of an order made under subsection (1)(b) above 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 (or any magistrates'

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court acting **[**[F61]in the same local justice**]** area as that court) for a direction terminating the disqualification.

(6) On an application under subsection (5) above the court may—

(a) having regard to the applicant's character, his 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;

and where an application in respect of an order is refused no further application in respect of that order shall be entertained if made before the end of the period of one year beginning with the date of the refusal.

(7) Any person who—

(a) has custody of a dog in contravention of an order under subsection (1)(b) above; or

(b) fails to comply with a requirement imposed on him under subsection (2)(a) above,

is guilty of an offence.

(8) A sum ordered to be paid by an order under subsection (2)(b) above shall be recoverable summarily as a civil debt.

(9) In the application of this section to Scotland—

(a) in subsection (3), for the words "Crown Court against the order" there shall be substituted the words " High Court of Justiciary against the order within the period of seven days beginning with the date of the order ";

(b) for subsection (4)(a) there shall be substituted—

"(a) until the end of the period of seven days beginning with the date of the order"; and

(c) in subsection (5), the words "(or any magistrates' court acting **[**[F62]in the same local justice**]** area as that court)" shall be omitted.

**Textual Amendments**

**F59** Words in s. 13 inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 33(11)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

**F60** Word in s. 13(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **sch. 6 para. 26(11)**; S.S.I. 2004/407, art. 2(b)

**F61** Words in s. 13(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 359(a)**; S.I. 2005/910, art. 3(y)

**F62** Words in s. 13(9)(c) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 359(b)**; S.I. 2005/910, art. 3(y)

## **[**[F63]13A Crown application: Scotland

(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 Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

**Changes to legislation:** *Protection of Badgers Act 1992 is up to date with all changes known to be in force on or before 15 January 2026. 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) Despite subsection (2), this Act applies to persons in the public service of the Crown as it applies to other persons.**]**

**Textual Amendments**

**F63** S. 13A inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 41(4)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(i)

## 14 Interpretation.

In this Act—

"ammunition" has the same meaning as in the [M9] Firearms Act 1968;

"badger" means any animal of the species *Meles meles*;

"badger sett" means any structure or place which displays signs indicating current use by a badger;

"firearm" has the same meaning as in the Firearms Act 1968;

"sale" includes hire, barter and exchange and cognate expressions shall be construed accordingly.

**Marginal Citations**

**M9** 1968 c. 27.

## 15 Short title, repeals, commencement and extent.

(1) This Act may be cited as the Protection of Badgers Act 1992.

(2) The enactments mentioned in the Schedule to this Act are repealed to the extent specified in the third column of that Schedule.

(3) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

(4) This Act does not extend to Northern Ireland.

***Changes to legislation:** Protection of Badgers Act 1992 is up to date with all changes known to be in force on or before 15 January 2026. 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*

## SCHEDULE

### REPEALS

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 1973 c. 57. | The Badgers Act 1973. | The whole Act. |
| 1981 c. 69. | The Wildlife and Countryside Act 1981. | Section 73(4).In Schedule 7, paragraphs 8 to 12. |
| 1985 c. 31. | The Wildlife and Countryside (Amendment) Act 1985. | Section 1. |
| 1986 c. 14. | The Animals (Scientific Procedures) Act 1986. | In Schedule 3, paragraph 9. |
| 1990 c. 43. | The Environmental Protection Act 1990. | In Schedule 9, paragraph 6. |
| 1991 c. 28. | The Natural Heritage (Scotland) Act 1991. | In Schedule 2, paragraph 5. |
| 1991 c. 35. | The Badgers (Further Protection) Act 1991. | The whole Act. |
| 1991 c. 36. | The Badgers Act 1991. | The whole Act. |
| 1991 c. 53. | The Criminal Justice Act 1991. | Section 26(3). |

### *TABLE OF DERIVATIONS*

*Note:*

The following abbreviations are used in this Table:—

| Section of Act | Derivation |
|---|---|
| 1973 | = The Badgers Act 1973 (c.57) |
| 1975 | = The Conservation of Wild Creatures and Wild Plants Act 1975 (c.48) |
| 1981 | = The Wildlife and Countryside Act 1981 (c.69) |
| 1985 | = The Wildlife and Countryside (Amendment) Act 1985 (c.31) |
| 1986 | = The Animals (Scientific Procedures) Act 1986 (c.14) |
| 1990 | = The Environmental Protection Act 1990 (c.43) |
| 1991 (S) | = The Natural Heritage (Scotland) Act 1991 (c.28) |

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| | |
|---|---|
| 1991 (FP) | = The Badgers (Further Protection) Act 1991 (1991 c.35) |
| 1991 | = The Badgers Act 1991 (1991 c.36) |
| 1(1) | 1973 s.1(1); 1985 s.1(1)(a) |
| (2) | 1973 s.1(1A); 1985 s.1(1)(b) |
| (3) | 1973 s.1(2); 1981, Sch.7, para 8 |
| (4) | 1973 s.1(3); 1981, Sch.7, para 8 |
| (5) | 1973 s.5 |
| 2(1) | 1973 s.2(1); 1981, Sch.7, para 9(2); 1985 s.1(2)(a) |
| (2) | 1973 s.2(2); 1985 s.1(2)(b) |
| 3 | 1973 s.2(3); 1991 s.1 |
| 4 | 1973 s.3 |
| 5 | 1973 s.4 |
| 6 | 1973 s.8(1), (3); 1986, Sch.3, para 9 |
| 7 | 1973 s.8(1A), (1B); 1981, Sch.7, para 10(1) |
| 8(1), (2) | 1973 s.8(1A), (1B); 1981, Sch.7, para 10(1); 1991 s.2(1) |
| (3) | 1973 s.8(4); 1991 s.2(2) |
| (4) to (9) | 1973 s.8(5), (6); 1991 s.3 |
| 9 | 1973 s.8(2) (s.8(2)(a) spent); s.8(2)(c) rep. 1981, Sch.7, para 9(4), Sch.17, Part II) |
| 10(1)(a) | 1973 s.9(1)(a), (2)(a); 1991 s.4(a); 1991(S) Sch.2, para.5(2) |
| (b) | 1973 s.9(1)(b), (2)(a) |
| (c) | 1973 s.9(1)(c), (2)(a) |
| (d) | 1973 s.9(1)(f), (2)(a); 1991 s.4 (d), (e) |
| (e) | 1973 s.9(1)(j), (2)(a); 1991 s.4(d), (e) |
| (f) | 1973 s.9(1)(i), (2)(a); 1991 s.4(d), (e) |
| (2)(a) | 1973 s.9(1)(d), (2)(b); 1991 s.4(b) |
| (b) | 1973 s.9(1)(e), (2)(b); 1981, Sch.7, para 10(2), (3); 1991 s.4(c) |
| (c) | 1973 s.9(1)(g), (2)(b); 1991 s.4(d), (f) |
| (d) | 1973 s.9(1)(h), (2)(b); 1991 s.4(d), (f) |
| (3) | 1973 s.9(1)(k), (2)(c); 1991 s.4(d), (g) |
| (4) | 1973 s.9(2)(a); 1990, Sch.9, para 6(2); 1991(S), Sch.2, para 5(2) |

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| | |
|---|---|
| (5) | 1973 s.9(2)(b); The Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272) |
| (6), (7) | 1973 s.9(4),(4A); 1981, Sch.7, para 10(4); 1990, Sch.9, para 6(3); 1991(S), Sch.2, para 5(3); 1991 s.4(h) |
| (8) | 1973 s.9(3) |
| (9) | 1973 s.9(6); 1991 s.4(i) |
| (10) | 1973 s.9(4); 1975 s.16 (saved by 1981 s.73(4)) |
| 11 | 1973 s.10(1); 1981, Sch.7, para 11(1) (s.10(1)(b) repealed (E&W) by Police and Criminal Evidence Act 1984 (c.60), Sch.7, Part I) |
| 12(1), (2), (3) | 1973 s.10(2); 1981, Sch.7, para 11(2); Criminal Justice Act 1982 (c.48) s.46; Criminal Procedure (Scotland) Act 1975 (c.21) s.289G; Criminal Justice Act 1991 s.26(3); S.I. 1991/2208 art 2(3); S.I. 1991/2706 art.2(2); 1991(FP) s.1(7) |
| (4) | 1973 s.10(3) |
| 13 | 1991 (FP) s.1 |
| 14 | 1973 s.11; 1981, Sch.7, para 12; 1991 s.5 |
| 15(1) | |
| (2) | |
| (3) | |
| (4) | 1973 s.12(2); 1991 (FP) s.2(4) |

**Changes to legislation:**
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**Changes and effects yet to be applied to :**

- s. 10(1)(d) words substituted by 2025 c. 34 Sch. 5 para. 44(2)(a)
- s. 10(1)(fa) inserted by 2025 c. 34 Sch. 5 para. 44(2)(b)
- s. 10(1A) inserted by 2025 c. 34 Sch. 5 para. 44(3)
- s. 10(2)(d) words substituted by 2025 c. 34 Sch. 5 para. 44(4)(a)
- s. 10(2)(e) inserted by 2025 c. 34 Sch. 5 para. 44(4)(b)
- s. 10(2A) inserted by 2025 c. 34 Sch. 5 para. 44(5)
- s. 10(6) words substituted by 2025 c. 34 Sch. 5 para. 44(6)
- s. 10(8A)(8B) inserted by 2025 c. 34 Sch. 5 para. 44(7)
- s. 10(9A) inserted by 2025 c. 34 Sch. 5 para. 44(8)

**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. 10(1)(fa) inserted by 2025 c. 34 Sch. 5 para. 44(2)(b)
- s. 10(1A) inserted by 2025 c. 34 Sch. 5 para. 44(3)
- s. 10(2)(e) inserted by 2025 c. 34 Sch. 5 para. 44(4)(b)
- s. 10(2A) inserted by 2025 c. 34 Sch. 5 para. 44(5)
- s. 10(8A)(8B) inserted by 2025 c. 34 Sch. 5 para. 44(7)
- s. 10(9A) inserted by 2025 c. 34 Sch. 5 para. 44(8)