

Protection of Badgers Act 1992 c. 51

s. 10 Licences.



Law In Force

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Subjects

Animals

Keywords

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England and Wales

10.— Licences.

(1) A licence may be granted to any person by [the appropriate conservation body]¹ 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](#)]², 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](#), 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 [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 [the appropriate conservation body]¹ 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.

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

(a) in England, [Natural England]³ ;

(b) in Wales, [the Natural Resources Body for Wales]⁴ ; and

(c) in Scotland, Scottish Natural Heritage.

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

(a) in England, the [Secretary of State]⁵ ; 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]¹ 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 [the appropriate conservation body]¹ as to the circumstances in which, in that [body's]⁶ 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 [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) above; and

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

Scotland

[

10.— Licences.

(1) A licence may be granted to any person by the appropriate 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 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](#), 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;

(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;

(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;

(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;

(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 within an area specified in the licence by any means so specified;

(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.

(2) [...]

(3) [...]

(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) [...]

(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.

(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 [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 (1)(g) above; and

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

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Notes

- 1 Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 [Sch.11\(1\) para.137\(a\)](#) (October 1, 2006)
- 2 Words substituted by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 [Sch.2 para.53](#) (May 27, 1997: with transitional provisions in 1997 c.11 Sch.3 relating to repeals and consequential amendments made by this Act)
- 3 Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 [Sch.11\(1\) para.137\(b\)](#) (October 1, 2006)
- 4 Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 [Sch.2\(1\) para.341](#) (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)
- 5 Words substituted by Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002/794 [Sch.1 para.35](#) (March 27, 2002)
- 6 Word substituted by Natural Environment and Rural Communities Act 2006 c. 16 [Sch.11\(1\) para.137\(c\)](#) (October 1, 2006)
- 7 Amended by Wildlife and Natural Environment (Scotland) Act 2011 asp 6 (Scottish Act) [Pt 4 s.33\(6\)](#) (June 29, 2011)

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