



# **Isle of Man**

*Ellan Vannin*

**AT 2 of 1990**

## **WILDLIFE ACT 1990**





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## WILDLIFE ACT 1990

### Index

Section	Page
<b>PART I – WILDLIFE</b>	<b>7</b>
<hr/>	
<i>Protection of birds</i>	7
1    Protection of wild birds, their nests and eggs .....	7
2    Exceptions to s 1 .....	9
3    Areas of special protection: birds .....	10
4    Exceptions to ss 1 and 3 .....	11
5    Prohibition of certain methods of killing or taking wild birds .....	12
6    Sale etc of live or dead wild birds, eggs etc .....	14
7    Registration etc of persons in possession of certain captive birds.....	15
8    Protection of captive birds.....	17
<i>Protection of other animals</i>	18
9    Protection of certain wild animals.....	18
10   Exceptions to s 9.....	19
11   Prohibition of certain methods of killing or taking wild animals.....	20
<i>Protection of plants</i>	22
12   Protection of wild plants.....	22
<i>Miscellaneous</i>	23
13   Areas of special protection: animals and plants.....	23
14   Introduction of new species etc .....	24
15   [Repealed] .....	25
<i>Supplemental</i>	25
16   Power to grant licences .....	25
17   False statements made for obtaining registration or licence etc .....	27
18   Prohibition of hunting with dogs.....	27
19   Possession of implements etc.....	28
20   Enforcement.....	28
21   Summary prosecutions .....	29
22   Penalties, forfeitures etc.....	29
23   Power to vary Schedules.....	30
24   Advisory bodies and their functions .....	31

25	Regulations, orders, notices etc .....	31
26	Interpretation of Part I .....	32
<b>PART II – NATURE CONSERVATION</b>		<b>33</b>
27	Areas of special scientific interest .....	33
28	Restoration where s 27 contravened .....	35
29	Compensation .....	36
30	Management agreements with owners etc of land .....	37
31	National nature reserves .....	37
32	Marine nature reserves .....	39
33	Byelaws for protection of marine nature reserves .....	40
<b>PART III – MISCELLANEOUS AND GENERAL</b>		<b>41</b>
34	Offences by bodies corporate etc .....	41
35	Publication of information .....	42
36	Duty to have regard to environment etc .....	42
37	Financial provisions .....	42
38	General interpretation .....	43
39	Consequential amendments .....	43
40	Repeals .....	43
41	Short title and commencement .....	43
<b>SCHEDULE 1</b>		<b>45</b>
BIRDS WHICH ARE PROTECTED BY SPECIAL PENALTIES		45
<b>SCHEDULE 2</b>		<b>47</b>
BIRDS WHICH MAY BE KILLED OR TAKEN		47
<b>SCHEDULE 3</b>		<b>48</b>
BIRDS WHICH MAY BE SOLD		48
<b>SCHEDULE 4</b>		<b>49</b>
CAPTIVE BIRDS WHICH MAY BE POSSESSED BY REGISTERED PERSONS ONLY		49
<b>SCHEDULE 5</b>		<b>51</b>
ANIMALS WHICH ARE PROTECTED		51
<b>SCHEDULE 6</b>		<b>51</b>
ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY CERTAIN METHODS		51
<b>SCHEDULE 7</b>		<b>52</b>
PLANTS WHICH ARE PROTECTED		52

---

<b>SCHEDULE 8</b>	<b>54</b>
ANIMALS AND PLANTS TO WHICH SECTION 14 APPLIES	54
<b>SCHEDULE 9</b>	<b>55</b>
<b>SCHEDULE 10</b>	<b>56</b>
REPEAL OF ENACTMENTS	56
<b>ENDNOTES</b>	<b>57</b>
TABLE OF LEGISLATION HISTORY	57
TABLE OF RENUMBERED PROVISIONS	57
TABLE OF ENDNOTE REFERENCES	57



**Isle of Man***Ellan Vannin***WILDLIFE ACT 1990**

*Received Royal Assent:* 20 February 1990  
*Passed:* 20 February 1990  
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**AN ACT** to repeal and re-enact with amendments legislation for the protection of birds; to make new provision for the conservation of wild creatures and wild plants; to prohibit certain methods of killing or taking wild animals; to restrict the introduction of certain animals and plants; to amend certain related enactments; to make new provision relating to nature conservation; and for connected purposes.

**GENERAL NOTE**

1. The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.
2. Sections 1 to 8 not operative for bird sanctuaries in existence immediately prior to 1/1/1991.

**PART I – WILDLIFE***Protection of birds***1 Protection of wild birds, their nests and eggs**

[P1981/69/1]

- (1) Subject to the provisions of this Part, if any person intentionally or recklessly —
  - (a) kills, injures or takes any wild bird;
  - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
  - (c) takes or destroys an egg of any wild bird,he shall be guilty of an offence.<sup>1</sup>

- (2) Subject to the provisions of this Part, if any person has in his possession or control —
- (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,
- he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that —
- (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;
- and in this subsection “the relevant provisions” means the provisions of this Part and of orders made under it and, in the case of a bird, egg or other thing falling within subsection (2), the provisions of the Protection of Birds Acts 1932 to 1975 and of orders made under those Acts.
- (4) Any person convicted of an offence under subsection (1) or (2) in respect of —
- (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird;
  - (b) the nest of such a bird; or
  - (c) an egg of such a bird or any part of such an egg,
- shall be liable to a special penalty.
- (5) Subject to the provisions of this Part, if any person intentionally or recklessly —
- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
  - (b) disturbs any nest or egg of such a bird; or
  - (c) disturbs dependent young of such a bird,
- he shall be guilty of an offence and liable to a special penalty.<sup>2</sup>
- (6) In this section “wild bird” does not include any bird which is shown to have been bred in captivity.
- (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird for the time being included in Part II of that Schedule.



## 2 Exceptions to s 1

[P1981/69/2]

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of —
  - (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of a nest of such a bird; or
  - (c) the taking or destruction of an egg of such a bird.
- (3) Subsections (1) and (2) shall not apply on Sundays in any area which the Department of Environment, Food and Agriculture (in this Act referred to as “the Department”) may by order prescribe for the purposes of those subsections.<sup>3</sup>
- (4) In this section and section 1 “**close season**” means —
  - (a) in the case of woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Department may by order made with respect to the whole or any specified part of the Island vary the close season for any wild bird specified in the order.
- (6) If it appears to the Department expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, it may by order made with respect to the whole or any specified part of the Island declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Department shall consult such bodies and organisations as appear to it to be appropriate.

### 3 Areas of special protection: birds

[P1981/69/3]

- (1) The Department may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say —
  - (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally or recklessly —
    - (i) kills, injures or takes any wild bird, game bird or poultry;<sup>4</sup>
    - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
    - (iii) takes or destroys an egg of such a bird;
    - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
    - (v) disturbs any nest or egg of such a bird; or
    - (vi) disturbs dependent young of such a bird,shall be guilty of an offence under this section;<sup>5</sup>
  - (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
  - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, the offender shall be liable to a special penalty.
- (2) A person authorised in writing by the Department or, where it is necessary for the protection of the water supply, the Isle of Man Water and Sewerage Authority, shall not by virtue of any such order be guilty of an offence by reason of —
  - (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of the nest of such a bird;
  - (c) the taking or destruction of an egg of such a bird; or
  - (d) the disturbance of such a bird or the nest, egg or dependent young of such a bird.<sup>6</sup>
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Department shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect

to which the order is to be made or, where the giving of such a notice is in its opinion impracticable, by advertisement in a newspaper published and circulating in the Island.

- (5) The Department shall not make an order under this section unless —
- (a) all the owners and occupiers aforesaid have consented thereto; or
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of 3 months from the date of the giving of the notice or the publication of the advertisement; or
  - (c) any such objections so made have been withdrawn.
- (6) Subsection (5) shall not apply to an order under this section which is made with respect only to an area falling within, or forming the whole of, a district defined in an order under section 11 of the *Wild Birds Protection Act 1932* (bird sanctuaries) where the latter order was in operation immediately before the commencement of the order made under this section.<sup>7</sup>

#### 4 Exceptions to ss 1 and 3

[P1981/69/4]

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful —
- (a) anything done in pursuance of a requirement by the Department under section 1 of the *Prevention of Damage by Agricultural Pests Act 1956*;
  - (b) anything done under section 3 of the *Forestry Act 1984*; or
  - (c) anything done under, or in pursuance of an order made under, any provision of the Diseases of Animals (Prevention) Acts 1948 to 1975.
- (2) Notwithstanding anything in section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of —
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason

of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of —

- (a) preserving public health, public safety or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, or fisheries.
- (4) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time if it had become apparent, before that time, that the action would prove necessary for the purpose mentioned in that subsection and either —
- (a) a licence under section 16 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.

## 5 Prohibition of certain methods of killing or taking wild birds

[P1981/69/5]

- (1) Subject to the provisions of this Part, if any person —
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming in to contact therewith, that is to say, any spring, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening, or any poisonous, poisoned or stupefying substance;<sup>8</sup>
  - (b) uses, or causes to be used, for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses, for the purpose of killing or taking any wild bird —
    - (i) any bow, crossbow or catapult;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or

- (viii) any chemical wetting agent;<sup>9</sup>
- (d) uses, as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliance, or which is blind, maimed or injured; or<sup>10</sup>
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird; or<sup>11</sup>
- (f) knowingly causes or permits to be done an act which is mentioned in paragraphs (a) to (e),<sup>12</sup>

he shall be guilty of an offence and be liable to a special penalty.

- (2) Subject to subsection (3), the Department may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) or under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries, or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.<sup>13</sup>
- (5) Nothing in subsection (1) shall make unlawful —
  - (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2; or
  - (b) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

- (6) In any proceedings under subsection (1)(c)(iii) it shall be a defence to show that the automatic or semi-automatic weapon was used by an authorised person for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries by any bird included in Part II of Schedule 2.

## 6 Sale etc of live or dead wild birds, eggs etc

[P1981/69/6]

- (1) Subject to the provisions of this Part, if any person —
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to sell, any of those things,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Department —
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from such a wild bird; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird which has been killed or taken in contravention of this Part he shall be guilty of an offence.
- (4) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held —
  - (a) any live wild bird other than a bird included in Part I of Schedule 3; or
  - (b) any live bird one of whose parents was such a wild bird,he shall be guilty of an offence.
- (5) Any person convicted of an offence under this section in respect of —
  - (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird; or
  - (b) an egg of such bird or any part of such an egg,shall be liable to a special penalty.
- (6) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which was bred in

captivity and has been ringed or marked in accordance with regulations made by the Department.

- (7) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.
- (8) The power of the Department to make regulations under subsection (2) shall include power —
- (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
  - (b) to provide that any contravention of the regulations shall constitute such an offence.
- (9) Regulations under subsection (2) shall secure that no person shall become or remain registered —
- (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or
  - (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,
- no account being taken for this purpose of a conviction which has become spent for the purposes of the *Rehabilitation of Offenders Act 2001*.<sup>14</sup>
- (10) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (11) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (10) shall be guilty of an offence.

## 7 Registration etc of persons in possession of certain captive birds

[P1981/69/7]

- (1) If any person who is not for the time being registered in accordance with regulations made by the Department keeps or has in his possession or under his control any bird included in Schedule 4, he shall be guilty of an offence and shall be liable to a special penalty.
- (2) The power of the Department to make regulations under this section shall include power —

- (a) to impose requirements which must be satisfied before a person can be registered in accordance with the regulations;
  - (b) to require such birds to be ringed and marked in accordance with the regulations;
  - (c) to impose requirements as to the registration of such birds.
- (2A) In respect of the registration of a bird under this section, the Department shall charge such fees as are prescribed under the *Fees and Duties Act 1989*.<sup>15</sup>
- (3) If any person fails to comply with regulations under this section he shall be guilty of an offence.
- (4) If any person keeps or has in his possession or under his control any bird included in Schedule 4 —
- (a) within five years of his having been convicted of an offence under this Part for which a special penalty is provided; or
  - (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,
- he shall be guilty of an offence.
- (5) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to another person —
- (a) within five years of the conviction of that other person for such an offence as is mentioned in subsection (4)(a);
  - (b) within three years of the conviction of that other person for such an offence as is mentioned in subsection (4)(b),
- he shall be guilty of an offence.
- (5A) No account shall be taken for the purposes of subsections (4) and (5) of any conviction which has become spent for the purposes of the *Rehabilitation of Offenders Act 2001*.<sup>16</sup>
- (6) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where any birds included in Schedule 4 are kept for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.
- (7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (6) shall be guilty of an offence.
- (8) Admission to a dwelling shall not be demanded as of right unless a warrant has been issued by a justice of the peace under subsection (9).
- (9) If it is shown to the satisfaction of a justice of the peace on information on oath that there are reasonable grounds for entry of the dwelling, the



justice may by warrant under his hand authorise an authorised person to enter the dwelling.

- (10) A warrant issued under subsection (9) shall continue in force for 5 days.

## **8 Protection of captive birds**

[P1981/69/8]

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence and be liable to a special penalty.
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird —
- (a) while that bird is in the course of conveyance, by whatever means;
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours;
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon; or<sup>17</sup>
  - (d) while that bird is being kept in a birdbag or keeping cage as part of a ringing exercise carried out under and in accordance with the terms of a licence granted under section 16(1)(b).
- (3) Every person who —
- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever —
    - (i) for the purpose of being shot; or
    - (ii) for the purpose of being hunted by trained birds of prey, immediately after their liberation; or
  - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,
- shall be guilty of an offence and be liable to a special penalty.

*Protection of other animals***9 Protection of certain wild animals**

[P1981/69/9]

- (1) Subject to the provisions of this Part, if any person intentionally or recklessly kills, injures or takes any wild animal included in Schedule 5 without reasonable excuse, he shall be guilty of an offence.<sup>18</sup>
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that —
  - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions;and in this subsection “the relevant provisions” means the provisions of this Part.
- (4) Subject to the provisions of this Part, if any person intentionally or recklessly —
  - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or
  - (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,he shall be guilty of an offence.<sup>19</sup>
- (4A) Subject to the provisions of this Part, any person who intentionally or recklessly disturbs any wild animal included in Schedule 5 or —
  - (a) a dolphin or whale (cetacean);
  - (b) a basking shark (*cetorhinus maximus*);
  - (c) a seal (all species) (pinnepedia); or
  - (d) a turtle (marine) (all species) (*dermochelydiae* and *cheloniidae*),shall be guilty of an offence.<sup>20</sup>
- (5) Subject to the provisions of this Part, if any person —
  - (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal

included in Schedule 5, or any part of, or anything derived from, such an animal; or

- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

## 10 Exceptions to s 9

[P1981/69/10]

- (1) Nothing in section 9 shall make unlawful —
  - (a) anything done in pursuance of a requirement by the Department under section 1 of the *Prevention of Damage by Agricultural Pests Act 1956*;
  - (b) anything done under section 3 of the *Forestry Act 1984*; or
  - (c) anything done under, or in pursuance of an order made under, the Diseases of Animals (Prevention) Acts 1948 to 1975.
- (2) Nothing in section 9(4) shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding section 9, a person shall not be guilty of an offence by reason of —
  - (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat

otherwise than in the living area of a dwelling house unless he had notified the Department of the proposed action or operation and allowed it a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that the action would prove necessary for the purpose mentioned in that subsection and either —
- (a) a licence under section 16 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.

## 11 Prohibition of certain methods of killing or taking wild animals

[P1981/69/11]

- (1) Subject to the provisions of this Part, if any person —
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
  - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow, crossbow or caterpult, or any explosive other than ammunition for a firearm; or
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever; or
  - (d) knowingly causes or permits to be done an act which is mentioned in paragraphs (a) or (b)<sup>21</sup>

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part if any person —
- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning, or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
  - (c) uses for the purpose of killing or taking any such wild animal —
    - (i) any automatic or semi-automatic weapon;

- (ii) any device for illuminating a target or sighting device for night shooting;
- (iii) any form of artificial light or any mirror or other dazzling device; or
- (iv) any gas or smoke not falling within paragraphs (a) and (b);
- (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; or
- (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal; or
- (f) knowingly causes or permits to be done an act which is mentioned in paragraphs (a) to (e),<sup>22</sup>

he shall be guilty of an offence.

- (3) Subject to the provisions of this Part, if any person —
  - (a) sets in position or knowingly causes or permits to be set in position any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and<sup>23</sup>
  - (b) while the snare remains in position fails without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day

he shall be guilty of an offence.

- (4) The Department may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2) (b), (c), (d) or (e) and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs, the animal in question shall be presumed to have been a wild animal unless the contrary is shown.<sup>24</sup>
- (6) In any proceedings for an offence under subsection (2)(a) or under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.<sup>25</sup>

*Protection of plants***12 Protection of wild plants**

[P1981/69/13]

- (1) Subject to the provisions of this Part, if any person —
- (a) intentionally or recklessly picks, uproots or destroys any wild plant included in Schedule 7; or<sup>26</sup>
  - (b) not being an authorised person, intentionally or recklessly uproots any wild plant not included in that Schedule,<sup>27</sup>
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person —
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 7, or any part of, or anything derived from, such a plant; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,
- he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.
- (4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.
- (5) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.
- (6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

*Miscellaneous***13 Areas of special protection: animals and plants**

- (1) The Department may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say —
- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified intentionally —
    - (i) kills, injures or takes any wild animal;
    - (ii) takes, damages or destroys any structure or place which such animal uses for shelter or protection while that structure is in use or being built or while that place is in use;
    - (iii) takes, damages or destroys anything which conceals or protects any such structure or place;
    - (iv) takes or destroys the egg, larva, pupa or any such immature state of such an animal;
    - (v) disturbs such animal while it is building a structure for shelter or protection or while it is in, on or near such structure containing the egg, larva, pupa or any such immature stage of such an animal;
    - (vi) disturbs the dependent young of such animal; or
    - (vii) picks, removes, uproots or destroys any wild plant;shall be guilty of an offence under this section;
  - (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
  - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, the offender shall be liable to a special penalty.
- (2) If any authorised person suspects with reasonable cause that any person is committing or has committed an offence under an order made under this section in relation to any area, he may require that person —
- (a) to give his full name and address; and
  - (b) to quit that area forthwith;
- and any person who fails to comply with a requirement under this paragraph shall be guilty of an offence.
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether

as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.

- (4) Before making any order under this section the Department —
  - (a) shall consult with any local authority within whose district the area with respect to which the order is to be made or any part thereof is situated; and
  - (b) shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in the Department's opinion impracticable, by advertisement in a newspaper published and circulating in the Island.
- (5) The Department shall not make an order under this section unless —
  - (a) all the owners and occupiers aforesaid have consented thereto; or
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of 3 months from the date of the giving of the notice or the publication of the advertisement; or
  - (c) any such objections so made have been withdrawn.

#### **14 Introduction of new species etc**

[P1981/69/14]

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which —
  - (a) is of a kind which is not ordinarily resident in and is not a regular visitor to the Island in a wild state; or
  - (b) is included in Part I of Schedule 8,he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 8 he shall be guilty of an offence.
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving



such information identifying or assisting in the identification of the other person as was then in his possession.

- (5) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.
- (6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

## 15 [Repealed]<sup>28</sup>

### *Supplemental*

## 16 Power to grant licences

[P1981/69/16]

- (1) Sections 1, 5, 6(3) and (4), 7 and 8 do not apply to anything done —
  - (a) for scientific or educational purposes;
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
  - (c) for the purpose of conserving wild birds;
  - (d) for the purpose of protecting any collection of wild birds;
  - (e) for the purposes of falconry or aviculture;
  - (f) for the purposes of any public exhibition or competition;
  - (g) for the purpose of taxidermy;
  - (h) for the purpose of photography;
  - (i) for the purposes of preserving public health or public or air safety;
  - (j) for the purpose of preventing the spread of disease; or
  - (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries,

if it is done under and in accordance with the terms of a licence granted by the Department.<sup>29</sup>

- (1A) Orders under section 3 do not apply to anything done by an owner or occupier, or any person authorised by the owner or occupier, of the land on which it is done, if it is done under and in accordance with the terms of a licence granted by the Department.<sup>30</sup>

- (2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to a gull's egg if it is done under and in accordance with the terms of a licence granted by the Department.
- (3) Sections 9(1), (2) and (4), 11(1) and (2) and 12(1) and orders under section 13 do not apply to anything done —
- (a) for scientific or educational purposes;
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
  - (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas;
  - (d) for the purpose of protecting any zoological or botanical collection;
  - (e) for the purpose of photography;
  - (f) for the purposes of preserving public health or public safety;
  - (g) for the purpose of preventing the spread of disease; or
  - (h) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,
- if it is done under and in accordance with the terms of a licence granted by the Department.
- (4) The following provisions, namely —
- (a) section 6(1) and (2);
  - (b) sections 9(5) and 12(2); and
  - (c) section 14,
- do not apply to anything done under and in accordance with the terms of a licence granted by the Department.
- (5) Subject to subsection (6), a licence under the foregoing provisions of this section —
- (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 subject to compliance with any specified conditions;
  - (d) may be modified or revoked at any time by the Department; and
  - (e) subject to paragraph (d), shall be valid for the period stated in the licence;
- and the Department may charge therefor such sum (if any) as it may determine.

- (6) A licence under subsection (1), (1A), (2) or (3) which authorises any person to kill wild birds or wild animals —
- (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
  - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.<sup>31</sup>
- (7) It shall be a defence in proceedings for an offence under section 8(b) of the *Cruelty to Animals Act 1925* (which restrict the placing on land of poison and poisonous substances) to show that —
- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and
  - (b) any conditions specified in the licence were complied with.
- (8) For the purposes of a licence granted under this section, the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.
- (9) The Department —
- (a) shall from time to time consult with the Wildlife Committee as to the exercise of its functions under this section; and
  - (b) shall not grant a licence of any description unless it has been advised by the Committee as to the circumstances in which, in their opinion, licences of that description should be granted.

## 17 False statements made for obtaining registration or licence etc

[P1981/69/17]

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section 6 (2) or 7(1) or the grant of a licence under section 16 —

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
  - (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,
- shall be guilty of an offence.

## 18 Prohibition of hunting with dogs

- (1) If any person uses or causes to be used any dog or pack of dogs for the purpose of coursing, hunting or otherwise endeavouring to take or kill any bird or other animal he shall be guilty of an offence.

- (2) In any proceedings for an offence under subsection (1) it shall be a defence for an authorised person to show that the dog or dogs were being used for the purpose of hunting, taking or killing rabbits or rats.
- (3) In this section, the words “bird or other animal” do not include game within the meaning of the *Game Act 1882*.
- (4) This section is without prejudice to section 3 of the *Game (Hares) Act 1971* (prohibition of competitive hare coursing).

## 19 Possession of implements etc

[P1981/69/18]

Any person who for the purposes of committing an offence under the foregoing provisions of this Part, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in like manner as for the said offence.

## 20 Enforcement

[P1981/69/19]

- (1) If a constable has reasonable cause to suspect that any person is committing or has committed an offence under this Part, the constable 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 or examine anything which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;
  - (c) [Repealed]<sup>32</sup>
  - (d) seize and detain for the purposes of proceedings under this Part anything which may be evidence of the commission of the offence or may be liable to be forfeited under section 22.
- (2) If a constable has reasonable cause to suspect that any person is committing an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) or arresting a person, under section 28 of the *Police Powers and Procedures Act 1998*, for such an offence, enter any land other than a dwelling-house.<sup>33</sup>
- (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for suspecting that —
  - (a) an offence under section 1, 3, 5, 7 or 8 in respect of which this Part or any order made under it provides for a special penalty; or
  - (b) an offence under section 6, 9, 11(1) or (2), 12, 13 or 14,

has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable (with or without other persons) to enter upon and search those premises for the purpose of obtaining that evidence.

## 21 Summary prosecutions

[P1981/69/20]

- (1) This section applies to —
  - (a) any offence under section 1(1) or 3(1) involving the killing or taking of any wild bird or the taking of an egg of such a bird;
  - (b) any offence under section 9(1) or 13(1) involving the killing or taking of any wild animal; and
  - (c) any offence under section 12(1) or 13(1) involving the picking, uprooting or destruction of any wild plant.
- (2) Summary proceedings for an offence to which this section applies may 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 his knowledge; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

## 22 Penalties, forfeitures etc

[P1981/69/21]

- (1) Subject to subsection (6), a person guilty of an offence under section 1, 3, 5, 6, 7, 8 or 13 shall be liable on summary conviction —
  - (a) in a case where this Part or any order made under it provides that he shall be liable to a special penalty, to a fine not exceeding £5,000;
  - (b) in any other case, to a fine not exceeding £2,500.<sup>34</sup>
- (2) Subject to subsection (6), a person guilty of an offence under section 9 or 11(1) or (2) shall be liable on summary conviction to a fine not exceeding £5,000.<sup>35</sup>
- (3) Subject to subsection (6), a person guilty of an offence under section 11(3), 12 or 17 shall be liable on summary conviction to a fine not exceeding £2,500.<sup>36</sup>

- (4) A person guilty of an offence under section 18 shall be liable on summary conviction to a fine not exceeding £5,000.
- (5) A person guilty of an offence under section 14 shall be liable —
  - (a) on summary conviction, to a fine not exceeding £5,000;
  - (b) on conviction on information, to a fine.
- (6) Where an offence to which subsection (1), (2) or (3) applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.
- (7) The court by which any person is convicted of an offence under this Part —
  - (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
  - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.

## 23 Power to vary Schedules

[P1981/69/22]

- (1) The Department may by order add any bird to, or remove any bird from, any of or any Part of Schedules 1 to 4.
- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- (3) The Department may, on a representation made to it by the Wildlife Committee, by order —
  - (a) add to Schedule 5 or Schedule 7 any animal or plant which, in its opinion, is in danger of extinction in the Island or is likely to become so endangered unless conservation measures are taken; and
  - (b) remove from Schedule 5 or Schedule 7 any animal or plant which, in its opinion, is no longer so endangered or likely to become so endangered.
- (4) The Department may, for the purpose of complying with an international obligation, by order —

- (a) add any animals to, or remove any animals from, Schedule 5 or Schedule 6; and
  - (b) add any plants to, or remove any plants from, Schedule 7.
- (5) The Department may by order —
- (a) add any animals to, or remove any animals from, Part I of Schedule 8; and
  - (b) add any plants to, or remove any plants from, Part II of that Schedule.

## 24 **Advisory bodies and their functions**

[P1981/69/23]

- (1) [Repealed]<sup>37</sup>
- (2) The Wildlife Committee shall exercise the functions conferred on it by this Act.
- (3) It shall be the duty of the Wildlife Committee to advise the Department on any question which the Department may refer to it or on which it considers it should offer its advice —
  - (a) in connection with the administration of this Act; or
  - (b) otherwise in connection with the protection of birds or other animals or plants.

## 25 **Regulations, orders, notices etc**

[P1981/69/26]

- (1) Any regulations, byelaws or order under a provision of this Act shall be laid before Tynwald as soon as may be after the making thereof, and if Tynwald at the sitting before which such regulations, byelaws or order are so laid or at the next sitting resolves that the regulations, byelaws or order shall be annulled, the regulations, byelaws or order shall cease to have effect.
- (2) Before making any order under this Part, the Department —
  - (a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as it may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - (b) shall consult with the Wildlife Committee as to whether the order should be made; and
  - (c) may, if it thinks fit, cause a public inquiry to be held.
- (3) The Department shall give consideration to any proposals for the making by it of an order under this Part with respect to any area which may be submitted to it by a local authority whose area includes that area.

## 26 Interpretation of Part I

[P1981/69/27]

(1) In this Part, unless the context otherwise requires —

“**advertisement**” includes a catalogue, a circular and a price list;

“**authorised person**” means —

- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- (b) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, the Department or the Isle of Man Water and Sewerage Authority;<sup>38</sup>

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

“**automatic weapon**” and “**semi-automatic weapon**” do not include any weapon the magazine of which is incapable of holding more than two rounds;

“**aviculture**” means the breeding and rearing of birds in captivity;

“**destroy**”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “**destruction**” shall be construed accordingly;

“**domestic duck**” means any domestic form of duck;

“**domestic goose**” means any domestic form of goose;

“**firearm**” has the same meaning as in the *Firearms Act 1947*;

“**game bird**” means any pheasant, partridge, grouse (or moor game);

“**livestock**” includes any animal which is kept —

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing;

“**occupier**”, in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

“**pick**”, in relation to a plant, means gather or pluck any part of the plant without uprooting it;

“**poultry**” means domestic fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

“**sale**” includes hire, barter and exchange and cognate expressions shall be construed accordingly;



“**uproot**”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;

“**vehicle**” includes aircraft, hovercraft and boat;

“**wild animal**” means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

“**wild bird**” means any bird of a kind which is ordinarily resident in or is a visitor to the Island in a wild state but does not include poultry or, except in sections 5 and 16, any game bird;

“**Wildlife Committee**” has the meaning given by section 24;

“**wild plant**” means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in the Island in a wild state.

- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.
- (4) This Part extends to the territorial waters adjacent to the Island.

## PART II – NATURE CONSERVATION

### 27 Areas of special scientific interest

[P1981/69/28]

- (1) Where the Department, after consultation with the Wildlife Committee is of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it may notify that fact to —
  - (a) [Repealed]<sup>39</sup>
  - (b) to every owner and occupier of any of that land.
- (2) A notification under subsection (1) shall have effect immediately it is served on all the persons mentioned in subsection (1) and shall continue in force until rescinded.
- (3) A notification under subsection (1) shall specify —
  - (a) the flora, fauna or geological or physiographical features by reason of which the land is of special interest;<sup>40</sup>
  - (b) any operations or activity of a type appearing to the Department to be likely to damage that flora or fauna or those features; and
  - (c) the time (not being less than 3 months from the date of the notification) within which and the manner in which

representations or objections with respect to the notification may be made.

- (4) If any representations or objections are received by the Department from any of the persons mentioned in subsection (1), the Department shall consider those representations or objections and, within 2 months of the expiry of the period referred to in subsection (3)(c), shall either confirm, vary or rescind the notification and shall notify the persons mentioned in subsection (1) of its decision and the reasons for it.
- (5) The owner or occupier of any land which is the subject of a notification under subsection (1) shall not carry out, nor cause or permit to be carried out on that land any operation or activity specified in the notification unless —
  - (a) one of them has given the Department written notice by recorded delivery of a proposal to carry out the operation or activity specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the following conditions is fulfilled —
    - (i) that the operation or activity is carried out with the Department's written consent;
    - (ii) that the operation or activity is carried out in accordance with the terms of an agreement entered into under section 30;
    - (iii) subject to subsection (6), that a period of 4 months has expired from the giving of notice under paragraph (a).
- (6) If, before the expiration of the said period of 4 months the Department offers to enter into an agreement under section 30, sub-paragraph (iii) of subsection (5)(b) shall have effect as if for the period of 4 months there were substituted a period of 12 months and if, within the latter period, the offeree does not enter into such an agreement, the matter shall be referred to an arbitrator to be agreed between the offeree and the Department, or in the absence of such agreement by the Clerk of the Rolls, and the findings of the arbitrator shall be binding on both parties.<sup>41</sup>
- (7) An agreement offered by the Department in accordance with subsection (6) shall provide for the making by the Department of payments determined in accordance with financial guidelines which shall be prepared by the Department after consultation with bodies appearing to it to be representative of the interests likely to be affected.
- (8) Guidelines prepared under subsection (7) shall not have effect unless approved by Tynwald.
- (9) A person who, without reasonable excuse, contravenes subsection (5) shall be liable on summary conviction to a fine not exceeding £5,000 or on conviction on information to a fine.

- (10) It is a reasonable excuse in any event for a person to carry out an operation if the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the commencement of the operation.
- (11) Proceedings for an offence under subsection (9) shall not be taken without the consent of the Attorney General.
- (12) In this section “operation” includes the removal or disturbance of any rock, plant, animal or other thing.
- (13) In this section “land” includes land covered (whether constantly or not) by water.<sup>42</sup>

## 28 Restoration where s 27 contravened

[P1981/69/31]

- (1) Where the operation or activity in respect of which a person is convicted of an offence under section 27 has destroyed or damaged any of the flora, fauna, or geological or physiographical features by reason of which the land on which it was carried out is of special interest, the court of summary jurisdiction by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.
- (2) Where an order is made under this section by a court of summary jurisdiction, the period specified in the order shall not begin to run —
  - (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a court of summary jurisdiction;
  - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (3) At any time before an order under this section has been complied with or fully complied with, a court of summary jurisdiction may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.
- (4) If, within the period so specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction —
  - (a) to a fine not exceeding £5,000; and

- (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (5) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, the Department may by its agents and employees enter the land and carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred in doing so.

## 29 Compensation

- (1) Where notification is made under section 27, the Department may pay compensation to any person having at the time of the making of the notification an interest in land to which the notification relates who, on a claim made to the Department within the time and in the manner prescribed by regulations under this section, shows that the value of his interest is less than it would have been if the notification had not been made.<sup>43</sup>
- (2) The amount of the compensation paid under subsection (1) shall be equal to the difference between the two values mentioned in that subsection.
- (3) For the purposes of subsection (1) —
- (a) an interest in land shall be valued as at the time when the notification was made;
  - (b) where a person, by reason of his having more than one interest in land, makes more than one claim under that subsection in respect of the same notification, his various interests shall be valued together.
- (4) For the purpose of assessing any compensation payable under this section, the rules set out in section 5 of the *Acquisition of Land Act 1984* (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (5) No claim shall be made under this section in respect of any notification under section 27 unless the Department has made a decision under subsection (4) of that section and given notice in accordance with that subsection.
- (6) Except insofar as may be provided by regulations under this section, any question of disputed compensation under this section shall be referred to and determined by an arbitrator appointed under, and selected in accordance with, section 3 of that Act (tribunal for assessing compensation).

- (7) In relation to the determination of any such question, the provisions of sections 9 and 10 of that Act (procedure and costs) shall apply, subject to any necessary modifications and to the provisions of regulations under this section.

### 30 Management agreements with owners etc of land

- (1) The Department may for the purpose of —
- (a) conserving or enhancing the natural beauty or amenity of any land;
  - (b) conserving the flora, fauna or geological or physiographical features of any land; or
  - (c) promoting its enjoyment by the public,
- make an agreement (in this section referred to as a “management agreement”) with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.
- (2) Without prejudice to the generality of subsection (1), a management agreement may —
- (a) impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land; and
  - (b) contain such further provisions (including provisions for the making of payments by either party to the other) as appear to the Department to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the Department against those persons accordingly.
- (4) Schedule 2 to the *Forestry Act 1984* (power for tenant for life and others to enter into forestry covenants) shall apply to management agreements as it applies to forestry covenants.
- (5) The powers conferred by this section on the Department shall be in addition to and not in derogation of any powers of the Department conferred by or under any statutory provision.

### 31 National nature reserves

[P1981/69/35]

- (1) Where the Department is satisfied that any land which is being managed as a nature reserve by the owner or occupier is of national importance, it

- may, subject to section 37(3), declare that land to be a national nature reserve.
- (2) A declaration by the Department that any land is a national nature reserve shall be conclusive of the matters declared.
  - (3) On the application of the owner and occupier concerned, the Department may, subject to section 37(3), as respects any land which is declared to be a national nature reserve under subsection (1), make byelaws for the protection of the reserve.
  - (4) Without prejudice to the generality of subsection (3) and subject to subsection (6), byelaws under this section —
    - (a) may provide for prohibiting or restricting the entry into, or movement within, nature reserves of persons, vehicles, boats and animals;
    - (b) may prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description in a nature reserve, the taking, destruction or disturbance of eggs of any such creature, the taking of, or interference with, vegetation of any description in a nature reserve, or the doing of anything therein which will interfere with the soil or damage any object in the reserve;
    - (c) may prohibit or restrict the shooting of birds or of birds of any description within such area surrounding or adjoining a nature reserve (whether the area be of land or of sea) as appears to the Department requisite for the protection of the reserve;
    - (d) may contain provisions prohibiting the depositing of rubbish and the leaving of litter in a nature reserve;
    - (e) may prohibit or restrict, or provide for prohibiting or restricting, the lighting of fires in a nature reserve, or the doing of anything likely to cause a fire in a nature reserve;
    - (f) may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into a nature reserve or the doing of anything therein which would otherwise be unlawful, whether under the byelaws or otherwise;
    - (g) may be made so as to relate either to the whole or to any part of the reserve or, in the case of byelaws made under paragraph (c) of any such surrounding or adjoining area as is mentioned in that paragraph, and may make different provisions for different parts thereof.
  - (5) Before making any byelaws under subsection (4)(c), the Department shall consult with the occupier of the land to which the byelaws shall apply.

- (6) Byelaws under this section shall not interfere with the exercise by any person of a right vested in him as owner, lessee or occupier of land in a nature reserve, or with the exercise of any public right of way or of any functions of statutory undertakings, of the Department of Infrastructure, the Department of Environment, Food and Agriculture or any drainage authority.<sup>44</sup>
- (7) In this section “nature reserve” means land managed for the purpose –
- (a) of providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of the Island and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area, or
  - (b) of preserving flora, fauna or geological or physiographical features of special interest in the area,
- or for both those purposes.
- (8) If any person contravenes any byelaw made under this section he shall be guilty of an offence and, on summary conviction, shall be liable to a fine not exceeding £2,500.

## 32 Marine nature reserves

[P1981/69/36]

- (1) Where, in the case of any land covered (continuously or intermittently) by tidal waters or parts of the sea in or adjacent to the Island up to the seaward limits of territorial waters it appears to the Department expedient, on an application made by the Wildlife Committee that the land and waters covering it should be managed by the Department for the purpose of –
- (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area; or
  - (b) providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area,
- the Department may, subject to section 37(3), by order designate the area comprising that land and those waters as a marine nature reserve; and the Department shall manage any area so designated for either or both of those purposes.
- (2) An application for an order under this section shall be accompanied by a copy of the byelaws which, if an order is made, the Wildlife Committee recommend that the Department make under section 33 for the protection of the area specified in the application.

- (3) The powers exercisable by the Department for the purpose of managing an area designated as a marine nature reserve under this section shall include power to install markers indicating the existence and extent of the reserve.
- (4) Nothing in this section or in byelaws made under section 33 shall interfere with the exercise of any functions of a relevant authority, any functions conferred by or under an enactment (whenever passed) or any right of any person (whenever vested).
- (5) In this section “relevant authority” means the Isle of Man Water and Sewerage Authority, the Department of Environment, Food and Agriculture, the Department of Infrastructure, a lighthouse authority or a drainage authority.<sup>45</sup>

### **33 Byelaws for protection of marine nature reserves**

[P1981/69/37]

- (1) The Department may, subject to section 37(3), make byelaws for the protection of any area designated as a marine nature reserve under section 32.
- (2) Without prejudice to the generality of subsection (1), byelaws made under this section as respects a marine nature reserve —
  - (a) may provide for prohibiting or restricting, either absolutely or subject to any exceptions —
    - (i) the entry into, or movement within, the reserve of persons and vessels;
    - (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the reserve, or the doing of anything therein which will interfere with the sea bed or damage or disturb any object in the reserve; or
    - (iii) the depositing of rubbish in the reserve;
  - (b) may provide for the issue, on such terms and subject to such conditions as may be specified in the byelaws, of permits authorising entry into the reserve or the doing of anything which would otherwise be unlawful under the byelaws; and
  - (c) may be so made as to apply either generally or with respect to particular parts of the reserve or particular times of the year.
- (3) Nothing in byelaws made under this section shall —
  - (a) prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or
  - (b) prohibit, except with respect to particular parts of the reserve at particular times of the year, the exercise of any such right by a pleasure boat.



- (4) Nothing in byelaws so made shall make unlawful —
- (a) anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
  - (b) the discharge of any substance from a vessel; or
  - (c) anything done more than 30 metres below the sea bed.
- (5) If any person contravenes any byelaws made under this section he shall be guilty of an offence and, on summary conviction, shall be liable to a fine not exceeding £2,500.
- (6) Proceedings for an offence under byelaws made under this section shall not be taken without the consent of the Attorney General.
- (6A) A byelaw made under this section which relates to —
- (a) fishing for, or the taking or killing of, any fish, or
  - (b) the use or possession of any fishing engine,
- shall be treated as sea fishery legislation for the purposes of Part 8 of the *Fisheries Act 2012*.
- In this subsection “fish” and “fishing engine” have the same meanings as in that Act.<sup>46</sup>
- (6B) An offence under a byelaw referred to in subsection (6A) shall be treated as an offence under the *Fisheries Act 2012* for the purposes of section 78 (forfeiture) of that Act.<sup>47</sup>
- (7) In this section “vessel” includes a hovercraft and any aircraft capable of landing on water and “pleasure boat” shall be construed accordingly.
- (8) References in this section to animals or plants of any description include references to eggs, seeds, spores, larvae or other immature stages of animals or plants of that description.

## PART III – MISCELLANEOUS AND GENERAL

### 34 Offences by bodies corporate etc

[P1981/69/69]

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member

in connection with his functions of management as if he were a director of the body corporate.

### **35 Publication of information**

The Department shall publish information or arrange for the publication of information in such form and such manner as it considers appropriate with respect to —

- (a) the operation of this Act and any public document under it;
- (b) any matters relating to the functions of the Department under this Act;
- (c) any other matters about which it appears to it to be desirable to publish information for the guidance of persons it considers likely to be affected by this Act.

### **36 Duty to have regard to environment etc**

- (1) In regard to any functions of the Department which may affect the physical environment, the Department shall, so far as may be consistent with the proper discharge of such functions, endeavour to secure a reasonable balance between —
  - (a) the promotion and maintenance of a stable and efficient agricultural industry; and
  - (b) the conservation and enhancement of the natural beauty and amenity of the countryside, the protection of wildlife habitat, and the conservation of flora and fauna and geological or physiographical features of interest.
- (2) Without prejudice to subsection (1), in the exercise of any functions which may affect the physical environment, a department, statutory board or local authority shall, so far as may be consistent with the proper discharge of those functions, have regard to the matters specified in subsection (1)(b).

### **37 Financial provisions**

[P1981/69/70]

- (1) There shall be defrayed out of money provided by Tynwald any expenses incurred by the Department under this Act.
- (2) Any sums received by the Department under this Act shall form part of the General Revenue of the Island.
- (3) The Department shall obtain the concurrence of the Treasury before making any order, bye-laws or declaration under sections 31, 32 and 33.

### 38 General interpretation

[P1981/69/71]

In this Act —

“**the commencement date**”, in relation to any provision of this Act, means the date of the coming into force of that provision;

“**the Department**” has the meaning given by section 2(3);

“**modifications**” includes additions, alterations and omissions and cognate expressions shall be construed accordingly;

“**the Wildlife Committee**” means the Wildlife Committee established under section 1(2) of the *Endangered Species Act 2010*.<sup>48</sup>

### 39 Consequential amendments

- (1) [Amends section 2 and substitutes section 9 of the *Game Act 1882*.]
- (2) [Amends section 9 of the *Curraghs Acquisition Act 1963*.]
- (3) [Amends sections 2, 4 and 7 of the *Wild Animals (Restriction on Importation, Etc.) Act 1980*.]

### 40 Repeals

The enactments mentioned in Schedule 10 are repealed to the extent specified in the third column of that Schedule.

### 41 Short title and commencement

- (1) This Act may be cited as the Wildlife Act 1990.
- (2) This Act shall come into operation on such day as the Department may by order appoint and different days may be appointed under this subsection for different provisions, different purposes or different areas.
- (3) An order under subsection (2) may make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions thereby brought into force.<sup>49</sup>



## SCHEDULE 1

### BIRDS WHICH ARE PROTECTED BY SPECIAL PENALTIES

Sections 1, 2, 4, 6 and 23[Sch 1 substituted by SD129/04.]

#### PART I – AT ALL TIMES

<i>Common name</i>	<i>Scientific name</i>
Avocet	Recurvirostra avosetta
Bittern	Botaurus stellaris
Bullfinch	Pyrrhula pyrrhula
Bunting, Corn	Miliaria calandra
Bunting, Reed	Emberiza schoeniclus
Buzzard	Buteo buteo
Buzzard, Honey	Pernis apivorus
Buzzard, Rough-legged	Buteo lagopus
Chough	Pyrrhocorax pyrrhocorax
Corncrake	Crex crex
Crake, Spotted	Porzana porzana
Crane, Common	Grus grus
Crossbills (all species)	Loxia
Curlew	Numenius arquata
Dipper	Cinclus cinclus
Dove, Turtle	Streptopelia turtur
Eagle, Golden	Aquila chrysaetos
Eagle, White-tailed	Haliaeetus albicilla
Egret, Little	Egretta garzetta
Falcons (all species)	Falconidae
Flycatcher, Spotted	Muscicapa striata
Gadwall	Anas strepera
Garganey	Anas querquedula
Geese (all species)	Anser and Branta
Goshawk	Accipiter gentilis
Grebe, Little	Tachybaptus ruficollis
Harriers (all species)	Circus
Heron, Purple	Ardea purpurea
Kingfisher	Alcedo atthis
Kite, Black	Milvus migrans
Kite, Red	Milvus milvus
Lapwing	Vanellus vanellus
Martin, Sand	Riparia riparia
Nightjar	Caprimulgus europaeus
Osprey	Pandion haliaetus
Ouzel, Ring	Turdus torquatus
Owl (all species)	Strigiformes

<i>Common name</i>	<i>Scientific name</i>
Petrel, Storm	Hydrobates pelagicus
Pintail	Anas acuta
Pipit, Tree	Anthus trivialis
Plover, Golden	Pluvialis apricaria
Plover, Little Ringed	Charadrius dubius
Plover, Ringed	Charadrius hiaticula
Quail, Common	Coturnix coturnix
Redstart, Black	Phoenicurus ochruros
Redstart, Common	Phoenicurus phoenicurus
Sandpiper, Common	Actitis hypoleucos
Scaup	Aythya marila
Shag	Phalacrocorax aristotelis
Shearwater, Manx	Puffinus puffinus
Shelduck	Tadorna tadorna
Shoveler	Anas clypeata
Skylark	Alauda arvensis
Snipe, Jack	Lymnocyptes minimus
Sparrow, House	Passer domesticus
Sparrow, Tree	Passer montanus
Sparrowhawk	Accipiter nisus
Spoonbill	Platalea eucorodia
Starling	Sturnus vulgaris
Swan, Bewick's	Cygnus bewickii
Swan, Whooper	Cygnus cygnus
Swift	Apus apus
Tern (all species)	Sternidae
Thrush, Song	Turdus philomelos
Tit, Bearded	Panurus biarmicus
Twite	Carduelis flavirostris
Warbler, Grasshopper	Locustella naevia
Water Rail	Rallus aquaticus
Whinchat	Saxicola rubetra
Yellowhammer	Emberiza citrinella

## PART II – DURING THE CLOSE SEASON

<i>Common name</i>	<i>Scientific name</i>
Teal	Anas crecca
Snipe	Gallinago gallinago
Woodcock	Scolopax rusticola

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

**SCHEDULE 2****BIRDS WHICH MAY BE KILLED OR TAKEN**Section 2, 3, 5 and 23<sup>50</sup>**PART I – OUTSIDE THE CLOSE SEASON**

<i>Common name</i>	<i>Scientific name</i>
Mallard	<i>Anas platyrhynchos</i>
Snipe	<i>Gallinago gallinago</i>
Teal	<i>Anas crecca</i>
Wigeon	<i>Anas penelope</i>
Woodcock	<i>Scolopax rusticola</i>

**PART II – BY AUTHORISED PERSONS AT ALL TIMES**

<i>Common name</i>	<i>Scientific name</i>
—	—

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

## SCHEDULE 3

### BIRDS WHICH MAY BE SOLD

Sections 6 and 23

#### PART I – ALIVE AT ALL TIMES IF RINGED AND BRED IN CAPTIVITY

<i>Common name</i>	<i>Scientific name</i>
Blackbird	<i>Turdus merula</i>
Brambling	<i>Fringilla montifringilla</i>
Bullfinch	<i>Pyrrhula pyrrhula</i>
Bunting, Reed	<i>Emberiza schoeniclus</i>
Chaffinch	<i>Fringilla coelebs</i>
Dunnock	<i>Prunella modularis</i>
Goldfinch	<i>Carduelis carduelis</i>
Greenfinch	<i>Carduelis chloris</i>
Jackdaw	<i>Corvus monedula</i>
Jay	<i>Garrulus glandarius</i>
Linnet	<i>Carduelis cannabina</i>
Magpie	<i>Pica pica</i>
Redpoll	<i>Carduelis flammea</i>
Siskin	<i>Carduelis spinus</i>
Starling	<i>Sturnus vulgaris</i>
Thrush, Song	<i>Turdus philomelos</i>
Twite	<i>Carduelis flavirostris</i>
Yellowhammer	<i>Emberiza citrinella</i>

#### PART II – DEAD AT ALL TIMES

<i>Common name</i>	<i>Scientific name</i>
Pigeon, Feral	<i>Columba livia</i>
Woodpigeon	<i>Columba palumbus</i>

#### PART III – DEAD FROM 1ST SEPTEMBER TO 28TH FEBRUARY

<i>Common name</i>	<i>Scientific name</i>
Mallard	<i>Anas platyrhynchos</i>
Snipe, Common	<i>Gallinago gallinago</i>
Teal	<i>Anas crecca</i>
Wigeon	<i>Anas penelope</i>
Woodcock	<i>Scolopax rusticola</i>



NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

## SCHEDULE 4

### CAPTIVE BIRDS WHICH MAY BE POSSESSED BY REGISTERED PERSONS ONLY

Sections 7 and 23

<i>Common name</i>	<i>Scientific name</i>
Avocet	Recurvirostra avosetta
Bee-eater	Merops apiaster
Bittern	Botaurus stellaris
Bittern, Little	Ixobrychus minutus
Bluethroat	Luscinia svecica
Bunting, Cirl	Emberiza cirlus
Bunting, Lapland	Calcarius lapponicus
Bunting, Snow	Plectrophenax nivalis
Chough	Pyrrhocorax pyrrhocorax
Corncrake	Crex crex
Crake, Spotted	Porzana porzana
Crossbills (all species)	Loxia
Curlew, Stone	Burhinus oedicephalus
Divers (all species)	Gavia
Dotterel	Charadrius morinellus
Duck, Long-tailed	Clangula hyemalis
Falcons (all species)	Falconidae
Fieldfare	Turdus pilaris
Firecrest	Regulus ignicapillus
Godwit, Black-tailed	Limosa limosa
Grebe, Black-necked	Podiceps nigricollis
Grebe, Slavonian	Podiceps auritus
Greenshank	Tringa nebularia
Hawks, True (except old)	Accipitridae (except world vultures) that the genera Aegypius, is to say, Buzzards, Gypaetus, Gypohierax, Eagles, Harriers, Gyps, Neophron, Hawks and Kites (all Sarcogyps and species in each case)
	Trigonoceps
Hoopoe	Upupa epops
Kingfisher	Alcedo atthis
Oriole, Golden	Oriolus oriolus
Osprey	Pandion haliaetus
Owl (all species)	Strigiformes

<i>Common name</i>	<i>Scientific name</i>
Petrel, Leach's	<i>Oceanodroma leucorhoa</i>
Phalarope, Red-necked	<i>Phalaropus lobatus</i>
Plover, Kentish	<i>Charadrius alexandrinus</i>
Plover, Little ringed	<i>Charadrius dubius</i>
Quail, Common	<i>Coturnix coturnix</i>
Redstart, Black	<i>Phoenicurus ochruros</i>
Redwing	<i>Turdus iliacus</i>
Rosefinch, Scarlet	<i>Carpodacus erythrinus</i>
Ruff	<i>Philomachus pugnax</i>
Sandpiper, Green	<i>Tringa ochropus</i>
Sandpiper, Purple	<i>Calidris maritima</i>
Sandpiper, Wood	<i>Tringa glareola</i>
Scoter, Common	<i>Melanitta nigra</i>
Scoter, Velvet	<i>Melanitta fusca</i>
Serin	<i>Serinus serinus</i>
Shorelark	<i>Eremophila alpestris</i>
Shrike, Red-backed	<i>Lanius collurio</i>
Spoonbill	<i>Platalea leucorodia</i>
Stilt, Black-winged	<i>Himantopus himantopus</i>
Stint, Temminck's	<i>Calidris temminckii</i>
Tern, Black	<i>Chlidonias niger</i>
Tern, Little	<i>Sterna albifrons</i>
Tern, Roseate	<i>Sterna dougallii</i>
Tit, Bearded	<i>Panurus biarmicus</i>
Tit, Crested	<i>Parus cristatus</i>
Treecreeper, Short-toed	<i>Certhia brachydactyla</i>
Warbler, Cetti's	<i>Cettia cetti</i>
Warbler, Dartford	<i>Sylvia undata</i>
Warbler, Marsh	<i>Acrocephalus palustris</i>
Warbler, Savi's	<i>Locustella luscinioides</i>
Whimbrel	<i>Numenius phaeopus</i>
Woodlark	<i>Lullulla arborea</i>
Wryneck	<i>Jynx torquilla</i>

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

**SCHEDULE 5****ANIMALS WHICH ARE PROTECTED**Sections 9, 10 and 23<sup>51</sup>

<i>Common name</i>	<i>Scientific name</i>
Bats, Horseshoe (all species)	Rhinolophidae
Bats, Typical (all species)	Vespertilionidae
Beefly, Lesser	Bombylius minor
Cricket, Dotted bush	Leptophyes punctatissima
Cricket, Dark bush	Pholidoptera griseoptera
Frog, Common	Rana temporaria
Grasshopper, Lesser mottled	Stenobothrus stigmaticus
Lizard, Viviparous	Lacerta vivipara
Moth, Grey	Hadena caesia mananii
Moth, Scarce crimson and gold	Pyrausta sanguinalis
Seals (all species)	Pinnepedia
Shark, Basking	Cetorhinus maximus
Shrimp, Fairy	Chirocephalus diaphanus
Turtle (marine) (all species)	Dermochelyidae and Cheloniidae
Whales (all species)	Cetacea

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

**SCHEDULE 6****ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY CERTAIN METHODS**

Sections 11 and 23

<i>Common name</i>	<i>Scientific name</i>
Bats, Horseshoe (all species)	Rhinolophidae
Bats, Typical (all species)	Vespertilionidae
Dolphin, Bottle-nosed	Tursiops truncatus (otherwise known as Tursiops tursio)
Dolphin, Common	Delphinus delphis
Hedgehog	Erinaceus europaeus
Otter, Common	Lutra lutra
Porpoise, Harbour (otherwise known as Common porpoise)	Phocaena phocaena
Stoat ("Weasel")	Mustela erminea

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## SCHEDULE 7

### PLANTS WHICH ARE PROTECTED

Sections 12 and 23<sup>52</sup>

<i>Common name</i>	<i>Scientific name</i>
Agrimony	<i>Agrimonia eupatoria</i>
Alpine clubmoss	<i>Diphasiastrum alpinum</i>
Beech fern	<i>Phegopteris connectilis</i>
Blunt-leaved pondweed	<i>Potamogeton obtusifolius</i>
Brackish water crowfoot	<i>Ranunculus baudotii</i>
Burnet saxifrage	<i>Pimpinella saxifraga</i>
Carline thistle	<i>Carlina vulgaris</i>
Celery-leaved buttercup	<i>Ranunculus sceleratus</i>
Common bladderwort	<i>Utricularia vulgaris</i>
Common cow-wheat	<i>Melampyrum pratense</i>
Common sea lavender	<i>Limonium vulgare</i>
Common wintergreen	<i>Pyrola minor</i>
Cranberry	<i>Vaccinium oxycoccus</i>
Dioecious sedge	<i>Carex dioica</i>
Dodder	<i>Cuscuta epithimum</i>
Dune fescue	<i>Vulpia fasciculata</i>
Eelgrass	<i>Zostera marina</i>
Fennel pondweed	<i>Potamogeton pectinatus</i>
Few-flowered spike rush	<i>Eleocharis quinqueflora</i>
Field gentian	<i>Gentianella campestris</i>
Floating burr-reed	<i>Sparganium natans</i>
Floating club-rush	<i>Eleogiton fluitans</i>
Grass-leaved orache	<i>Atriplex littoralis</i>
Greater broomrape	<i>Orobanche rapum-genistae</i>
Greater spearwort	<i>Ranunculus lingua</i>
Hare's-foot clover	<i>Trifolium arvense</i>
Hay-scented buckler-fern	<i>Dryopteris aemula</i>
Horned pondweed	<i>Zannichellia palustris</i>
Iceland cress	<i>Rorippa islandica</i>
Isle of Man cabbage	<i>Coincya monensis monensis</i>
Ivy-leaved bellflower	<i>Wahlenbergia hederacea</i>
Juniper	<i>Juniperus communis</i>
Killarney filmy fern	<i>Trichomanes speciosum</i>
Least willow	<i>Salix herbacea</i>
Lesser clubmoss	<i>Selaginella selaginoides</i>

<i>Common name</i>	<i>Scientific name</i>
Lesser tussock-sedge	<i>Carex diandra</i>
Lesser water-plantain	<i>Baldellia ranunculoides</i>
Maidenhair fern	<i>Adiantum capillus veneris</i>
Marsh hawk's-beard	<i>Crepis paludosa</i>
Marsh stitchwort	<i>Stellaria palustris</i>
Mountain pansy	<i>Viola lutea</i>
Narrow buckler-fern	<i>Dryopteris carthusiana</i>
Narrow-leaved water-plantain	<i>Alisma lanceolatum</i>
Nodding bur-marigold	<i>Bidens cernua</i>
Orchid (all species)	<i>Orchidaceae</i>
Oyster plant	<i>Mertensia maritima</i>
Pale butterwort	<i>Pinguicula lusitanica</i>
Pale sedge	<i>Carex pallescens</i>
Parsley fern	<i>Cryptogramma crispa</i>
Parsley water-dropwort	<i>Oenanthe lachenalii</i>
Pennyroyal	<i>Mentha pulegium</i>
Pillwort	<i>Pilularia globulifera</i>
Pink water speedwell	<i>Veronica catenata</i>
Portland spurge	<i>Euphorbia portlandica</i>
Rock sea lavenders	<i>Limonium binervosum</i> agg.
Saltmarsh flat-sedge	<i>Blasmus rufus</i>
Sea-purslane	<i>Atriplex portulacoides</i>
Sea wormwood	<i>Seriphidium maritimum</i>
Shepherd's cress	<i>Teesdalia nudicaulis</i>
Slender spike-rush	<i>Eleocharis uniglumis</i>
Smooth cat's-ear	<i>Hypochaeris glabra</i>
Spring sandwort	<i>Minuartia verna</i>
Stagshorn club moss	<i>Lycopodium clavatum</i>
Strawberry clover	<i>Trifolium fragiferum</i>
Tubular water-dropwort	<i>Oenanthe fistulosa</i>
Viper's bugloss	<i>Echium vulgare</i>
Western clover	<i>Trifolium occidentale</i>
White sedge	<i>Carex curta</i>
Wilson's filmy fern	<i>Hymenophyllum wilsonii</i>
Wood fescue	<i>Festuca altissima</i>
Wood melick	<i>Melica uniflora</i>
Wood small-reed	<i>Calamagrostis epigejos</i>
Wood speedwell	<i>Veronica montana</i>
Wood vetch	<i>Vicia sylvatica</i>
Yellow waterlily	<i>Nuphar lutea</i>

NOTE: The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

## SCHEDULE 8

### ANIMALS AND PLANTS TO WHICH SECTION 14 APPLIES

Sections 14 and 23

#### PART I – ANIMALS WHICH ARE ESTABLISHED IN THE WILD

<i>Common name</i>	<i>Scientific name</i>
Common carp/Mirror carp	<i>Cyprinus carpio</i>
Goose, Canada	<i>Branta canadensis</i>
Lizard, Common Wall	<i>Podarcis muralis</i>
Newt, Alpine	<i>Triturus alpestris</i>
Perch	<i>Perca fluviatilis</i>
Rat, Black	<i>Rattus rattus</i>
Roach	<i>Rutilus rutilus</i>
Roach x Rudd hybrids	<i>Scardinius spp.</i>
Rudd	<i>Scardinius erythrophthalmus</i>
Tench	<i>Tinca tinca</i>
Wallaby, Red-necked	<i>Macropus rufogriseus</i> <sup>53</sup>

#### PART II – PLANTS

<i>Common name</i>	<i>Scientific name</i>
American skunk cabbage	<i>Lysichiton americanum</i>
Canadian waterweed	<i>Elodea canadensis</i>
Common rhododendron	<i>Rhododendron ponticum</i>
Cord grass	<i>Spartina anglica</i>
Cotoneaster spp.	<i>Cotoneaster spp including C.horizontalis, C. integrifolius, C. simonsii</i>
Curly waterweed	<i>Lagarosiphon major</i>
Floating pennywort	<i>Hydrocotyle ranunculoides</i>
Fringed water lily	<i>Nymphoides peltata</i>
Giant knotweed	<i>Fallopia sachalinensis</i>
Giant rhubarb	<i>Gunnera tinctoria</i>
Giant salvinia	<i>Salvinia molesta</i>
Himalayan Balsam	<i>Impatiens glandulifera</i>
Hogweed, Giant	<i>Heracleum mantegazzianum</i>
Hottentot fig	<i>Carpobrotus edulis</i>
Keeled garlic	<i>Allium carinatum</i>
Kelp, Giant	<i>Macrocystis pyrifera</i>
Knotweed, Japanese	<i>Polygonum cuspidatum</i>
Mind-your-own business	<i>Soleirola solerolii</i>
Montbretia	<i>Crocsmia x crocosmiliflora</i>

<i>Common name</i>	<i>Scientific name</i>
New Zealand pygmyweed (also known as Australian stonecrop)	<i>Crassula helmsil</i> (also sold as <i>Crassula recurva</i> , <i>Tillaea recurva</i> , <i>Tillaea helmsil</i> )
Nuttall's water-weed	<i>Elodea nutallii</i>
NZ privet	<i>Griselinia littoralis</i>
Parrots feather	<i>Myriophyllum aquaticum</i>
Pirri-pirri burr	<i>Aceana novae-zelandia</i> and <i>Aceana ovalifolia</i>
Sea buckthorn	<i>Hippophae rhamnoides</i>
Seaweed, Japanese	<i>Sargassum muticum</i>
Spanish bluebell and hybrids	<i>Hyacinthoides hispanica</i> and <i>Hyacinthoides x massartiana</i>
Three-cornered leek	<i>Allium triquetrum</i>
Water fern	<i>Azolla filiculoides</i>
Water hyacinth	<i>Eichhornia crassipes</i>
Water lettuce	<i>Pistia stratioides</i>

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## SCHEDULE 9<sup>55</sup>

**SCHEDULE 10****REPEAL OF ENACTMENTS**

## Section 40

**PART I - REPEAL OF ACTS**

Part I repeals the following Acts wholly –

Sea Gull Preservation Act 1867  
Salmon and Fresh-water Fishery Act 1882  
Game Act 1928  
Sea Gull Preservation Amendment Act 1930  
Wild Birds Protection Act 1932  
Protection of Birds Act 1955  
Wild Birds Protection (Amendment) Act 1975

and the following Acts in part –

Prevention of Damage by Agricultural Pests Act 1956  
Game (Hares) Act 1971  
Endangered Species (Import and Export) Act 1981  
Treasury Act 1985  
Fines Act 1986.

The repeal of the Wild Birds Protection Acts 1932 to 1975 not in operation as respects bird sanctuaries defined in any order under s 11 of the Wild Birds Protection Act 1932 which was in force immediately before 1/1/1991.]

**PART II – REPEAL OF PUBLIC DOCUMENTS**

Part II repeals the following public documents in part –

Customs and Excise Acts (Application) Order 1979 (GC38/79)  
Customs and Excise Acts (Application) (Amendment) Order 1979  
(GC249/79)  
Customs and Excise (Transfer of Functions) Order 1980 (GC29/80)  
Department of Agriculture, Fisheries and Forestry Order 1986  
(GC121/86).]



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

- 
- <sup>1</sup> Subs (1) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>2</sup> Subs (5) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>3</sup> Subs (3) amended by SD155/10 Sch 3.
- <sup>4</sup> Subpara (i) amended by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>5</sup> Para (a) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>6</sup> Subs (2) amended by Agriculture (Miscellaneous Provisions) Act 2000 s 2 and by SD155/10 Sch 9.
- <sup>7</sup> Subs (6) added by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>8</sup> Para (a) amended by Criminal Justice Act 1996 Sch 2.
- <sup>9</sup> Para (c) amended by Criminal Justice Act 1996 Sch 2.
- <sup>10</sup> Para (d) amended by Criminal Justice Act 1996 Sch 2.
- <sup>11</sup> Para (e) amended by Criminal Justice Act 1996 Sch 2.
- <sup>12</sup> Para (f) inserted by Criminal Justice Act 1996 Sch 2.
- <sup>13</sup> Subs (4) amended by Criminal Justice Act 1996 Sch 2.
- <sup>14</sup> Subs (9) amended by Rehabilitation of Offenders Act 2001 Sch 2.
- <sup>15</sup> Subs (2A) inserted by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>16</sup> Subs (5A) inserted by Rehabilitation of Offenders Act 2001 Sch 2.
- <sup>17</sup> Para (c) amended by Veterinary Surgeons Act 2005 Schs 2 and 3.
- <sup>18</sup> Subs (1) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a) and (b)(i).
- <sup>19</sup> Subs (4) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>20</sup> Subs (4A) inserted by Agricultural (Miscellaneous Provisions) Act 2008 s 3(b)(ii).
- <sup>21</sup> Para (d) inserted by Criminal Justice Act 1996 Sch 2.

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- <sup>22</sup> Para (f) inserted by Criminal Justice Act 1996 Sch 2.
- <sup>23</sup> Para (a) amended by Criminal Justice Act 1996 Sch 2.
- <sup>24</sup> Subs (5) amended by Criminal Justice Act 1996 Sch 2.
- <sup>25</sup> Subs (6) amended by Criminal Justice Act 1996 Sch 2.
- <sup>26</sup> Para (a) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>27</sup> Para (b) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(a).
- <sup>28</sup> S 15 repealed by Endangered Species Act 2010 Sch 5.
- <sup>29</sup> Subs (1) amended by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>30</sup> Subs (1A) inserted by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>31</sup> Subs (6) amended by Agriculture (Miscellaneous Provisions) Act 2000 s 2.
- <sup>32</sup> Para (c) repealed by Police Powers and Procedures Act 1998 Sch 5.
- <sup>33</sup> Subs (2) amended by Police Powers and Procedures Act 1998 Sch 4.
- <sup>34</sup> Subs (1) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>35</sup> Subs (2) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>36</sup> Subs (3) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>37</sup> Subs (1) repealed by Endangered Species Act 2010 Sch 5.
- <sup>38</sup> Para (b) amended by SD155/10 Sch 9.
- <sup>39</sup> Para (a) amended by SD155/10 Schs 3 and 11.
- <sup>40</sup> Para (a) amended by Statute Law Revision Act 1992 Sch 1.
- <sup>41</sup> Subs (6) amended by Transfer of Governor's Functions Act 1992 Sch 1.
- <sup>42</sup> Subs (13) added by Statute Law Revision Act 1997 Sch 1.
- <sup>43</sup> Subs (1) amended by Agricultural (Miscellaneous Provisions) Act 2008 s 3(c).
- <sup>44</sup> Subs (6) amended by SD486/94 and by SD155/10 Schs 3, 5 and 11.
- <sup>45</sup> Subs (5) amended by SD486/94 and by SD155/10 Schs 3, 5, 9 and 11.
- <sup>46</sup> Subs (6A) inserted by Fisheries Act 2012 s 76.
- <sup>47</sup> Subs (6B) inserted by Fisheries Act 2012 s 76.
- <sup>48</sup> Definition of "the Wildlife Committee" added by Endangered Species Act 2010 Sch 4.
- <sup>49</sup> Majority of provisions in force by 1/1/1991 by GC9/91. ADO (s 15, Sch 9 and the entry in Sch 10 as they amend or repeal the Endangered Species (Import and Export) Act 1981) 9/12/2003 (SD824/03). The whole Act in force except to the extent that ss 1 to 8 do not apply to bird sanctuaries controlled by Wild Birds Protection Acts 1932 to 1975 [see Art. 2(2) and (3) GC9/91].
- <sup>50</sup> Sch 2 substituted by SD129/04.
- <sup>51</sup> Sch 5 substituted by SD457/04.
- <sup>52</sup> Sch 7 substituted by SD129/04.
- <sup>53</sup> Part I amended by SD135/11.
- <sup>54</sup> Part II amended by SD135/11.
- <sup>55</sup> Sch 9 repealed by Endangered Species Act 2010 Sch 5.

