

Grigor & Young

SOLICITORS & ESTATE AGENTS

Briefing for

The Cairngorm National Park Authority Land Management Forum

On

Wildlife Law, including the new Wildlife and Natural Environment (Scotland) Act 2011 (The WANE Act)

Part 1 of Briefing:-

1 Vicarious Liability.

Following public consultation in 2009, the Wildlife and Natural Environment (Scotland) Bill was introduced in the Scottish Parliament on 9 June 2010 and finally passed on 2nd March 2011. Known as "The WANE Act", it received Royal Assent on 7th April 2011. This Act created a new Offence of Vicarious Liability. This section of the Act came into force, by virtue of the Second Commencement Order, on 1st January 2012. This is a new and important area of the law which is of special interest to everyone who has an interest in managing or working the land. To understand it, we will need to refresh our memories by looking at the older legislation:-

1.1 General Legislation and History:-

In the 20th Century the law has given increasing protection to wild creatures and plants which might be affected by human activity. Since 1980 new legislation on species protection has been driven by the need to implement three international agreements on the conservation of nature:-

- The 1979 Convention on the conservation of European wildlife and natural habitats (the 'Bern Convention'),
- The 1979 European Community Directive on the conservation of wild birds (the 'Birds Directive'), and,
- The 1992 European Community Directive on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive')

1.2 Bird Crimes – what are these?

Vicarious liability is connected to certain crimes committed against wild birds. The relevant offences relate to killing, taking, disturbing wild birds, and their nests, their eggs or young, **or** relate to the way in which birds are killed or caught **or** relate to the possession of certain banned substances. I will look at these offences in more detail.

1.2.1 General Bird Crime

The Birds Directive and Bern Convention were incorporated in United Kingdom legislation in the Wildlife and Countryside Act 1981.

In general, it is an offence to

- Kill or injure any wild bird;
- Capture or keep (alive or dead) any wild bird;
- Destroy or take the egg of any wild bird;
- Sell or advertise for sale any wild bird or its eggs;
- Destroy, damage, interfere with, take or obstruct the use of the nest of any wild bird while it is in use or being built.

There are about 250 species of birds in Britain. The base – line is that all of these birds, chicks and eggs are protected, whether it is a Sparrow, Robin, “Hoodie”, Osprey or Buzzard, unless otherwise specified in law (that is – there are specific legal exceptions to the general rule). I will come to the exceptions later.

1.2.2 Specially Protected Birds

There are tighter restrictions for **specially protected species**. These birds are protected by special penalties. These specially protected birds are listed in Annex 1 (Parts I and II) for your ease of reference. This list is in addition to the general protection which the law gives all birds detailed in 1.2.1 above.

It is a crime to:-

- disturb any specially protected bird while it is building its nest;
- disturb any specially protected bird while it is in or near a nest containing eggs or young;
- disturb the young of any of these birds before they are wholly independent.

Possessing a wild bird or egg is against the law unless you can prove that it came to you by lawful means. You may keep injured birds in order to nurse them, provided that they are released again, and mercy killing is permitted where a seriously injured bird has no reasonable chance of recovery.

Please note the additional protection which has been given to White – tailed Eagles, and to their nest sites.

Exceptions

There are some obvious exceptions for birds which you will already know about.

-Game and Wildfowl.

Certain species such as the traditional “Game” birds and Wildfowl etc. can be taken outside their close season, providing that the list of those birds which cannot be taken on Sundays or Christmas Day is adhered to (See **Annex 2**, Parts 1 and 2). The Game and Wildlife Conservation Trust have issued excellent guidance on when Black Grouse can (rarely) and cannot be shot www.gwct.org.uk.

-Problem Species

There are exceptions for some problem species which may be killed under a general licence, but care must still be taken to ensure that this is carried out within the confines of the law. To do this, you must ensure that the pest species is included under one of the General Licences which are issued by SNH each year under Section 16 of the Wildlife and Countryside Act 1981. There are quite a few different ones, but the most common ones relevant in practice are:-

- . The Authorisation for the killing or taking of wild birds (in accordance with the stated conditions), for the purpose of the conservation of wild birds. This exception mainly deals with the Great Black – Backed Gull, Carrion Crow, Hooded Crow, Jackdaw, Jay, Magpie, and Rook. Only the 2 Crows and the Magpie may be used as a decoy in a Larsen Trap. Only a single bird is permitted as a decoy in a Larsen Trap. The birds must be given adequate food, water and shelter, good posts, and must be inspected every 24 hours (note – not “each day” if the next inspection is more than 24 hours from the previous inspection). I enclose a copy of this Authorisation for your ease of reference.
- . The Authorisation for the killing or taking of wild birds (in accordance with the stated conditions), for the purpose of the prevention of serious damage to livestock, foodstuffs for livestock, crops, vegetables and fruit. I recommend that you look it up on the SNH Website. It is easily found. Note the different species.
- . The Authorisation for the killing or taking of wild birds (in accordance with the stated conditions), for the purpose of preserving public health and safety and for the purpose of preventing the spread of disease.

Again, please note the different species which relate to each purpose, and ensure that you are clear about which species you are trying to catch for each.

1.3 Additional Crimes which relate to all birds unless otherwise specified under Licence:-

1.3.1 It is also an offence to set in position any of the following articles, being an article which is of such a nature and is so placed as to be likely to cause bodily

injury to any wild bird coming into 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 – except if 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 all reasonable precautions were taken to prevent injury to wild birds;

- 1.3.2 use for the purpose of killing or taking any wild bird and 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.

The above offences do not make it unlawful to use a cage-trap or net for the purpose of taking any game bird (namely grouse, mallard, partridge or pheasant) if it is shown that the taking of the bird is solely for the purpose of breeding, if this is done correctly under the WANE Act;

1.3.3 Possession of pesticides

Possession of any pesticide containing one or more prescribed active ingredient shall constitute an offence. “Pesticide” has the meaning given in the Food and Environment Protection Act 1985 and is any substance, preparation or organism prepared or used, among other uses, to protect plants or wood or other plant products from harmful organisms; to regulate the growth of plants; to give protection against harmful creatures; or to render such creatures harmless. The term pesticides, therefore, has a very broad definition which embraces herbicides, fungicides, insecticides, rodenticides, soilsterilants, wood preservatives and surface biocides among others. “Prescribed ingredient” means an ingredient of a pesticide which fits it for use as such and which is of a type prescribed by order made by Scottish Ministers. This includes the list of substances contained in the Possession of Pesticides (Scotland) Order 2005, namely Aldicarb, Alphachloralose, Aluminium phosphide, Bendiocarb, Carbofuran, Mevinphos, Sodium cyanide or Strychnine, for instance.

1.4 Vicarious Liability – what does it mean?

A person who “has a legal right to kill or take a wild bird on or over land” or “manages or controls shooting rights, shooting activity, habitats, predator control or the release of game birds” may find that he is prosecuted for certain wildlife offences committed by others. There is no need for the actual perpetrator of the crime (I will call the perpetrator “Mr A”) to be prosecuted for the offence in order for the other party (I will call him “Mr B”) to be prosecuted. It is a defence if Mr B “did not know that the offence was being committed” by Mr A **and** took “all reasonable steps and exercised all due diligence” to prevent it.

To remind you, if the perpetrator, Mr A (whether or not he is successfully prosecuted for it) carries out the aforementioned offences, namely:-

- (a)(i) Killing or injuring any wild bird or interfering with its nesting;
- (a)(ii) Disturbing a specially protected bird in its nest or intentionally harassing such a bird;
- (b) Placing any trap, snare or poisoned bait in such a position that it is likely to injure a wild bird;
- (c) Possessing a prohibited pesticide,

Mr B may be guilty of the offence too. The link between the actual person who may have carried out the crime and the person with the right to kill the wild bird may even be

through a third party.

1.5 Who might find themselves liable?

Depending on the circumstances, any one or combination of the following persons (Mr B) might find that they are prosecuted vicariously for the actions of the perpetrator (Mr A):-

- Landowner;
- Occupier/shooting tenant;
- Farmer who manages land on which shooting occurs (e.g. if he undertakes predator control);
- Anyone who employs gamekeepers or outsources keeping or pest /predator control services;
- Factor (resident or agent);
- Gamekeeper or other person with shooting rights and/or managerial responsibility for shooting activities;
- Shoot syndicate member.

The 1981 Act, as amended, allows directors, managers and other officers of a corporate body (such as a limited company) or partners of a Scottish partnership to be prosecuted for the offences of the company or partnership, and managers to be prosecuted for the offences of an unincorporated association they manage where it is proven that an offence was committed with the consent or connivance of, or attributable to any neglect on their part.

1.6 Actions to be carried out.

Estates are now under an obligation to take reasonable steps to set up a system of control that has due regard to the risks and the law involved. In the first place Mr B would have to prove that he “did not know that the offence was being committed” by Mr A. This is an issue of fact and evidence. Secondly Mr B must discharge his obligation that he took “all reasonable steps and exercised all due diligence” to prevent the offence from occurring. This is the area where Estates must adopt pro – active procedures, and arrange for positive documented regimes to be put in place e.g:-

- Estates must ensure that all the necessary written documentation such as employment contracts, management agreements, agricultural leases and Sporting Leases accurately reflect the Estate’s policies towards the aforementioned offences;
- Estates must ensure that all policies and procedures regarding the aforementioned offences are absolutely clear and are in writing;
- Estates must make it clear that all policies and procedures will be accompanied by ongoing training, regular appraisals and even spot checks if necessary;
- Employees must confirm in writing that they will carry out all reasonable instructions from their Employer intended to prevent relevant offences from occurring;
- Employees must attend relevant training courses (this Briefing Note could form part of that training);
- Where the remit includes responsibility to manage others or procure services from others for relevant services, Estates and their Staff must ensure that all agreements, contracts, policies or procedures are followed up and documented.;
- Estates must undertake regular review of performance of staff (including spot checks or inspections if relevant) to identify risks and training needs;
- Employers must ensure that staff training is ongoing and records of attendance at training courses are kept;

- Employees must be encouraged to report regularly to their employer/manager;
- Detailed records of all substances which remotely resemble any Pesticide should be documented, receipts stored, and a separate book listing these should be kept.

Scottish Land and Estates www.scottishlandandestates.com has produced an excellent and very detailed Due Diligence Good Practice Guide to help those of us working on the land to understand the new offence and to take necessary measures to prevent the relevant offences taking place. If you are not a Member already, do contact them directly for further information. I can highly recommend the Guidance, which gives a number of practical scenarios and solutions.

Part 2 of Briefing:-

2 Other aspects of the WANE Act

As the WANE Act covers subjects other than Vicarious Liability, I undernote a brief synopsis of these, for your ease of reference:-

2.1 Muirburn

The principal legislation governing muirburn is the Hill Farming Act 1946 as now amended by the WANE Act and the Climate Change (Scotland) Act 2009. The legislation covers the burning of all vegetation on moorland, including plants such as gorse. It does not refer just to the burning of heather. The muirburn season has been amended - removing the previous distinctions based on altitude. It will no longer be possible to conduct muirburn between 1st and 15th May above an altitude of 450m without a Licence.

The “standard” Muirburn Season will now run between 1st October and 15th April. An owner or an individual with the written permission of the owner can burn until 30th April. An extension can be applied for outside this season under licence for certain specified purposes. It is now possible to apply for a licence to carry out muirburn out of season for the following purposes: -

- a) Conserving, restoring, enhancing or managing the natural environment;
- b) Research; or
- c) Public safety.

The Application Forms can be downloaded from the SNH Website. Before carrying out muirburn a person must notify those “occupiers” (including tenants and householders) of land within 1 km of the proposed muirburn site of their intention to burn during the coming muirburn season. Notification must be in writing (this includes email and text messaging where agreed by neighbours) and should be given no later than 7 days before burning. Notification does not need to be given to those who have indicated in writing that they do not want to be notified of any intention to make muirburn. Where there are 10 or more occupiers of land situated within 1 km of the site notification may be made by placing a notice in at least one newspaper circulating in the area. This will be especially relevant if there is a village less than 1km away from the Estate. Care must be taken to conform to the Hill Farming Act 1946. The following are still offences under s25 of the Hill Farming Act 1946 which could result in fines or even imprisonment. Firearms Licences may also be affected:-

- (a) Burning at night, between 1 hour after sunset and 1 hour before sunrise;
- (b) Leaving a fire unattended;
- (c) Being unable to control a fire or having not made provision for its proper control;
- (d) Causing damage to any woodland;
- (e) Causing damage to neighbours' property.

Care must also be taken under other legislation such as The Roads (Scotland) Act 1984, s100(c), which makes it an offence to light a fire, or allow a fire to spread, within 30m of a road so as to damage the road or endanger traffic on it, without lawful authority or reasonable excuse. It is also an offence to create smoke that is a nuisance to inhabitants of the neighbourhood under The Clean Air Act 1993, and the Public Health (Scotland) Act 1897. It is even an offence under the Fire (Scotland) Act 2005, Part 3, s53 and s54 to fail to take fire safety measures in respect of harm caused by fire.

2.2 Game

The WANE Act dispenses with the separate - and historic - treatment of "Game" (Pheasants, Partridges, Grouse, Black Grouse and Ptarmigan). Instead, it confers them with a status similar to that of other species (e.g. geese) which may be shot in terms of the Wildlife and Countryside Act 1981. The Seasons remain unchanged for the moment. It is now permissible to catch up pheasants and partridges 28 days after the end of the Season for taking eggs and to catch grouse for dosing in the Close Season (there had been dubiety in the past about whether these activities were legal under the 1981 Act). Pheasants and Red – legged Partridges are technically non – native species, but these have been dealt with separately under the Act (see the section below on Non – native and Invasive Species).

2.3 Hares

Close Seasons have been introduced for Brown Hares (1st February to 30th September), and for Blue Hares (1st March to 31st July). A Licence may be obtained for killing Hares in the Close Season. A Licence is not necessary if the necessity for killing the Hare "could not have been anticipated" (which presumably means the emergency killing of a Hare marauding crops, whose presence could not have been foreseen). The authorities must be told immediately if a Hare has been killed during the Close Season.

2.4 Badgers

The existing offences relating to badgers of knowingly (a) taking, injuring or killing, (b) cruelly ill-treating, (c) selling and possessing live badgers and (d) marking and ringing. The protection of badgers has been strengthened by the creation of new offences of "knowingly causing or permitting" any of these offences. Licensing provisions to allow certain actions that would otherwise be illegal in relation to badgers are brought in line with other licensing provisions and the Act also allows this function to be delegated to SNH or local authorities. The Act also amends available penalties for offences relating to badgers to allow for offences of taking, injuring, killing and possession to be dealt with by summary procedure or on indictment.

2.5 Deer

The Deer Act 1996 is significantly amended in relation to deer management as well as regulation of the practice of deer stalking. In exercising its functions SNH must have regard to a variety of matters. This now includes public safety interests and the need to manage deer in urban and peri-urban areas. The WANE Act required SNH to draw up a code of practice for the purpose of providing practical guidance in respect of deer management. Significant changes have been made to the way SNH can exercise its powers to intervene in deer management by way of control agreements and control schemes (sections 7 and 8 and Schedule 2 of the 1996 Act). The trigger for SNH

intervention was previously limited to property damage or public safety risks by deer. Now steps taken or not taken for the purposes of deer management and damage to deer welfare or damage to public interests of a social, economic or environmental nature may also be able to trigger SNH involvement. SNH must have regard to the code in any decision to intervene. Reference to the need to reduce deer numbers has been removed, thus implying the SNH intervention should not only relate to reducing deer numbers. Control agreements may now specify measures which owners or occupiers are expected to take during each 12 month period for which the agreement has effect, and SNH must review control agreements at least annually to monitor compliance. The procedures for making Control Schemes under section 8 have been modified and the process streamlined. SNH shall make a control scheme where it has given notice to owners and occupiers of land that it considers measures need to be taken in relation to deer and either (i) SNH is satisfied that it is not possible to secure a control agreement or a control agreement is not being carried out or (ii) 6 months have elapsed since SNH gave notice but no agreement has been reached and action is still required. The procedure for making the control scheme and having it confirmed by Ministers is simplified to reduce notification requirements and remove the need for a public local inquiry to be held if there are objections. The appeal process is also modified to reduce the time limit for appeal to 28 days and providing for appeals to be brought to the Scottish Land Court rather than the Court of Session. The trigger for SNH intervention in emergency situations is reduced from “serious” damage to “damage” and this includes damage by deer to their own welfare or welfare of other deer. Deer close seasons are retained. Owner/occupier rights to kill or take deer outwith close seasons or at night are maintained but only under licence and for certain purposes - namely prevention of damage (or serious damage in the case of night shooting) to property, public safety and no other means of control which might reasonably be adopted would be adequate. Section 25 of the 1996 Act is also amended to allow deer to be killed on welfare grounds if it is starving and has no reasonable chance of recovering.

The Act includes a reserve power for Ministers to introduce regulations to establish a register of persons competent to shoot deer. A person would be prohibited from shooting deer unless that person is registered or supervised by a registered person. Before any such regulations would be made Ministers must consult with all those having an interest in the regulations.

2.5.1 Deer (Close Seasons) (Scotland) Order 2011

On 1st January 2012 the Deer (Close Seasons) (Scotland) Order 2011 came into effect in Scotland which gives continued legal effect to the current close seasons in place for deer in this country.

The close seasons are unchanged at:-

Fallow Deer: - (Male) 1st May to 31st July. (Female) 16th February to 20th October.
Red Deer: - (Male) 21st October to 30th June. (Female) 16th February to 20th October.
Red/Sika deer hybrid: - (Male) 21st October to 30th June. (Female) 16th February to 20th October.
Roe Deer: - (Male) 21st October to 31st March. (Female) 1st April to 20th October.
Sika deer: - (Male) 21st October to 30th June. (Female) 16th February to 20th October.

2.6 Non – native and Invasive Species.

The WANE Act enshrines a general no – release principle in relation to non – native species, including animals and plants. There is a specific exemption for pheasants and red – legged partridge. The Act also prohibits the possession, keeping, sale or transport

of certain species of invasive animals or plants. Ministers may also prescribe that the presence of certain invasive species of animals or plants outwith their native range must be notified. Failure to do so will be an offence. Relevant bodies (authorised as such by the Scottish Government) such as Scottish Natural Heritage or the Scottish Environmental Protection Agency, may make species Control Orders in respect of areas where non – native invasive species are to be found. These Control Orders may put a positive obligation on the landowner to remove the species in question.

2.7 Species Licensing.

The 1981 Act allowed licences to be granted for activities involving certain defined activities relating to protected species which would otherwise be illegal. The WANE Act added a new activity or “purpose” for which a licence can now be granted for certain protected animals such as the red squirrel and water vole. The Licence will now be granted if the activity contributes towards the achievement of a significant social, economic or environmental benefit, and there is “no other satisfactory solution”.

2.8 Snares

The Act incorporates the Snares (Scotland) Order 2010 and further strengthens snare regulation in the 1981 Act. Practitioners should refer to the Industry Code of Practice for more detail in relation to snaring provisions and best practice. The main changes to note are:-

- 2.8.1 Snares which cause unnecessary suffering are outlawed;
- 2.8.2 Snares must be fitted with stops to prevent nooses from reducing in circumference to less than 23cms (for foxes) or 13cms (for other targets species);
- 2.8.3 Snares must be anchored to prevent them being dragged by animals caught in them;
- 2.8.4 Snares must not be set in places where animals could become fully or partially suspended or drown;
- 2.8.5 Snare operators must obtain an identification (ID) number. In order to obtain an ID number, snare practitioners must make an application to a Chief Constable who must be satisfied that the applicant has been trained to set snares and on the circumstances in which setting snare is an appropriate method of predator control;
- 2.8.6 All snares must be fitted with a tag which displays the snare operator's ID number. Where the snare is intended to catch brown hares, rabbits or foxes, the tag must also display a statement that this is the intention of the snare;
- 2.8.7 The ID number appearing on a tag is presumed in any proceedings to be the ID number of the person setting the snare;
- 2.8.8 Once a snare has been set it must be inspected at least once every day at intervals of no more than 24 hours. Any animals caught in the snare must be released or removed and the snare must be kept free-running;
- 2.8.9 It will be an offence to possess a snare while on any land or set a snare without the authorisation of the land owner or occupier;

2.8.10 Once they have obtained an ID number, all snare operators must keep two years' records of all snares they set including the location, date it is set, date it was removed, types of animals caught, dates animals found. A snare practitioner must be able to produce these records to the Chief Constable within 21 days if requested.

Please note that the majority of the snaring provisions came into force on 1st January 2012 – but the requirement that all snares must be fitted with an ID tag and number is not expected to come into force until early 2013 to allow snaring operators sufficient time to successfully complete the compulsory training course which will be a prerequisite for getting an ID number from police.

3 Conclusion

It can be seen from the foregoing that the Wildlife and Natural Environment (Scotland) Act 2011 is far reaching and all encompassing. It affects all of us who work on the land. In the event that you are unsure about anything it is absolutely imperative that you discuss any issue with your line manager, factor and employer, or seek legal advice from a Solicitor who is a specialist in this area of the law.

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Annex I — Birds which are protected by special penalties (Sections 1, 2, 4, 6, 19 and 22 of the 1981 Act, as amended):-

Part I – at all times.

Avocet *Recurvirostra avosetta*
Bee-eater *Merops apiaster*
Bittern *Botaurus stellaris*
Bittern, Little *Ixobrychus minutus*
Bluethroat *Luscinia svecica*
Brambling *Fringilla montifringilla*
Bunting, Cirl *Emberiza cirlus*
Bunting, Lapland *Calcarius lapponicus*
Bunting, Snow *Plectrophenax, nivalis*
Buzzard, Honey *Pernis apivorus*
Capercaillie *Tetrao urogallus*
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*
Eagle, Golden *Aquila chrysaetos*
Eagle, Whitetailed *Haliaeetus albicilla*
Falcon, Gyr *Falco rusticolus*
Fieldfare *Turdus pilaris*
Firecrest *Regulus ignicapillus*
Garganey *Anas querquedula*
Godwit, Blacktailed *Limosa limosa*
Goshawk *Accipiter gentilis*
Grebe, Blacknecked *Podiceps nigricollis*
Grebe, Slavonian *Podiceps auritus*
Greenshank *Tringa nebularia*
Gull, Little *Larus minutus*
Gull, Mediterranean *Larus melanocephalus*
Harriers (all species) *Circus*
Heron, Purple *Ardea purpurea*
Hobby *Falco subbuteo*
Hoopoe *Upupa epops*
Kingfisher *Alcedo atthis*
Kite, Red *Milvus milvus*
Merlin *Falco columbarius*
Oriole, Golden *Oriolus oriolus*
Osprey *Pandion haliaetus*
Owl, Barn *Tyto alba*
Owl, Snowy *Nyctea scandiaca*
Peregrine *Falco peregrinus*
Petrel, Leach's *Oceanodroma leucorhoa*
Phalarope, Rednecked *Phalaropus lobatus*
Plover, Kentish *Charadrius alexandrinus*
Plover, Little Ringed *Charadrius dubius*
Quail, Common *Coturnix coturnix*
Redstart, Black *Phoenicurus ochruros*
Redwing *Turdus iliacus*

Rosefinch, Scarlet *Carpodacus erythrinus*
Ruff *Philomachus pugnax*
Sandpiper, Green *Tringa ochropus*
Sandpiper, Purple *Calidris maritime*
Sandpiper, Wood *Tringa glareola*
Scaup *Aythya marila*
Scoter, Common *Melanitta nigra*
Scoter, Velvet *Melanitta fusca*
Serin *Serinus serinus*
Shorelark *Eremophila alpestris*
Shrike, Redbacked *Lanius collurio*
Spoonbill *Platalea leucorodia*
Stilt, Blackwinged *Himantopus himantopus*
Stint, Temminck's *Calidris temminckii*
Swan, Bewick's *Cygnus Bewickii*
Swan, Whooper *Cygnus Cygnus*
Tern, Black *Chlidonia niger*
Tern, Little *Sterna albifrons*
Tern, Roseate *Sterna dougallii*
Tit, Bearded *Panurus biarmicus*
Tit, Crested *Parus cristatus*
Treecreeper, Short-toed *Certhia brachydactyla*
Warbler, Cetti's *Cettia cetti*
Warbler, Dartford *Sylvia undata*
Warbler, Marsh *Acrocephalus palustris*
Warbler, Savi's *Locustella luscinioides*
Whimbrel *Numenius phaeopus*
Woodlark *Lullula arborea*
Wryneck *Jynx torquilla*

Part II — Birds protected during the close season:-

Goldeneye *Bucephala*
Goose, Greylag *Anser anser*
(in Outer Hebrides, Caithness,
Sutherland and Wester Ross only)
Pintail *Anas acuta*

Schedule 1a

Birds which are protected from harassment

Eagle, White-tailed *Haliaeetus albicilla*

Schedule a1

Protected nests and nest sites: birds

Eagle, White-tailed *Haliaeetus albicilla*

Annex 2

Birds which may be killed or taken

Part I — Outside the close season

Coot *Fulica atra*

Duck, Tufted *Aythya fuligula*

Gadwall *Anas strepera*

Goldeneye *Bucephala clangula*

Goose, Canada *Branta canadensis*

Goose, Greylag *Anser anser*
Goose, Pink-footed *Anser brachyrhynchus*
Goose, White-fronted *Anser albifrons*
(in England and Wales only)
Grouse, Black *Tetrao tetrix*
Grouse, Red *Lagopus lagopus scoticus*
Mallard *Anas platyrhynchos*
Moorhen *Gallinula chloropus*
Partridge, Grey *Perdix perdix*
Partridge, Red-legged *Alectoris rufa*
Pheasant, Common *Phasianus colchicus*
Pintail *Anas acuta*
Plover, Golden *Pluvialis apricaria*
Pochard *Aythya farina*
Ptarmigan *Lagopus mutus*
Shoveler *Anas clypeata*
Snipe, Common *Gallinago gallinago*
Teal *Anas crecca*
Wigeon *Anas Penelope*
Woodcock *Scolopax rusticola*

*Part II — Exception: birds included in part I
which may not be killed or taken on Sundays
or Christmas Day*

Coot *Fulica atra*
Duck, Tufted *Aythya fuligula*
Gadwall *Anas strepera*
Goldeneye *Bucephala clangula*
Goose, Canada *Branta canadensis*
Goose, Greylag *Anser anser*
Goose, Pinkfooted *Anser brachyrhynchus*
Mallard *Anas platyrhynchos*
Moorhen *Gallinula chloropus*
Pintail *Anas acuta*
Plover, Golden *Pluvialis apricaria*
Pochard *Aythya ferina*
Shoveler *Anas clypeata*
Snipe, Common *Gallinago gallinago*
Teal *Anas crecca*
Wigeon *Anas penelope*
Woodcock *Scolopax rusticola*