
Badgers

Badgers and their setts are protected under the Protection of Badgers Act (1992), which consolidated and added to previous legislation. It is illegal to wilfully kill or injure a badger or to interfere with a sett, unless a license is granted.

The Protection of Badgers Act 1992 fully protects badgers and their setts. Offences include:

- killing, injuring and taking (or attempting these);
- possession of a dead badger (or derivative);
- cruelly ill-treating a badger;
- damaging a badger sett or any part of it;
- destroying a badger sett;
- obstructing access to / entrance of a badger sett;
- causing a dog to enter a badger sett; and
- disturbing a badger whilst occupying a sett.

Badgers are also listed on Schedule 6 of the Wildlife and Countryside Act 1981, which prohibits certain methods of killing and capture.

Bats

All bats are classed as European Protected Species (EPS) and are protected under Schedule 5 of the Wildlife & Countryside Act (1981, as amended) and are also listed under Section 41 of the Natural Environment and Rural Communities Act 2006 (NERC Act). They are protected by law against all of, but not limited to, the following:

- intentional or reckless killing, injuring, taking;
- damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection; and
- disturbance of animal occupying such a structure or place.

The Conservation Habitats and Species Regulations 2017 (as amended), provide additional protection for the breeding sites and resting places of bats.

Hazel Dormouse

Hazel dormice are given full protection under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Protection to the species is also afforded by Schedule 2 of the Conservation of Habitats and Species Regulations 2017, known as the 'Habitats Regulations', making the hazel dormouse a European Protected Species. These two pieces of legislation operate in parallel, although there are some small differences in scope and wording. Under the provisions of Section 9 of the Wildlife & Countryside Act, it is an offence to:

- Intentionally kill, injure or take a dormouse;
- Possess or control and live or dead specimen or anything derived from a dormouse (unless it can be shown to have been legally acquired);
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by a dormouse; and
- Intentionally or recklessly disturb a dormouse while it is occupying a structure or place which it uses for that purpose.

Schedule 2 of the Habitat Regulations, make it an offence to:

- Deliberately capture or kill a dormouse;
- Deliberately disturb a dormouse;
- Damage or destroy a breeding site or resting place of a dormouse; and
- Keep transport, sell or exchange, or offer for sale or exchange a live or dead dormouse or any part of a dormouse.

The dormouse is a Priority Species under the UK Biodiversity Action Plan (UK BAP) and has been adopted as a Species of Principal Importance in England under section 42 of the NERC Act 2006.

Great crested newt

Great crested newt is an European Protected Species (EPS) and their habitats, both aquatic and terrestrial, are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (amended) and under the Conservation of Habitats and Species Regulations 2017, known as the 'Habitats Regulations'. They are also listed as a priority species under the UK Post-2010 Biodiversity Framework. Under the Habitats Regulations, it is an offence if you:

- Deliberately capture, injure or kill any wild animal of an EPS;
- Deliberately disturb wild animals of any such species;
- Deliberately take or destroy the eggs of such an animal; or
- Damage or destroy a breeding site or resting place of such an animal

For any development that affects great crested newts it must be first demonstrated that:

- There are no alternatives;
- There are over-riding reasons of public interest or safety; and
- It will not adversely affect the conservation status of the species.

Natural Resources Wales (NRW) issues licences under Regulation 55 of the Habitats Regulations to allow you to work within the law. We issue them for specific purposes stated in the Regulations, if the following three tests are met:

- The purpose of the work meets one of those listed in the Habitats Regulations;
- That there is no satisfactory alternative; and
- That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.

Breeding Birds

Under the Wildlife & Countryside Act 1981 (as amended), a wild bird is defined as any bird of a species that is resident in or is a visitor to the European Territory of any member state in a wild state. Breeding birds are also protected under Conservation of Habitats and Species Regulations 2017, known as the 'Habitats Regulations'.

All birds, their nests and eggs are protected by law and it is an offence, with certain exceptions, to;

- intentionally kill, injure or take any wild bird;
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built;
- intentionally take or destroy the egg of any wild bird;
- have in one's possession or control any wild bird, dead or alive, or any part of a wild bird, which has been taken in contravention of the Act or the Protection of Birds Act 1954;
- have in one's possession or control any egg or part of an egg which has been taken in contravention of the Act or the Protection of Birds Act 1954;
- use traps or similar items to kill, injure or take wild birds;
- have in one's possession or control any bird of a species occurring on Schedule 4 of the Act unless registered, and in most cases ringed, in accordance with the Secretary of State's regulations; and
- intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs of young, or disturb the dependent young of such a bird.

Rare species listed in Schedule 1 Part1 are given further protection, including special increased penalties under Subsection 1 (5) as amended by the Countryside and Rights of Way Act 2000. If any person intentionally or recklessly disturbs any wild bird included in Schedule 1 while it is building a nest or is in, or near containing eggs or young.

The British Trust for Ornithology (BTO) has a list of birds that are Species of Conservation Concern. These birds are not legally protected but whether they are found on site, they

should be given planning consideration. The criteria for birds listed as amber (medium conservation concern) include:

- Historical population decline during 1800-1995, but recovering: population has more than doubled over last 25 years;
- Moderate (25-49%) decline in UK breeding population over last 25 years;
- Moderate (25-49%) contraction of UK breeding range over last 25 years;
- Moderate (25-49%) decline in UK non breeding population over last 25 years;
- Species with unfavourable conservation status in Europe (Species of conservation Concern);
- Five year mean of breeding pairs in the UK;
- $\geq 50\%$ of UK breeding population in 10 or fewer sites.
- $\geq 50\%$ of UK non breeding population in 10 or fewer sites;
- $\geq 20\%$ of European breeding population in UK; and
- $\geq 20\%$ of NW European (wildfowl), East Atlantic Flyway (waders) or European (others) non breeding populations in UK.

Water vole

The water vole is a UK Biodiversity Action Plan (BAP) Priority Species and a Species of Principal Importance in Wales under Section 42 of the NERC Act 2006. Water voles are fully protected under Section 9 of the Wildlife and Countryside Act 1981 (as amended) which makes it an offence to:

- Intentionally kill, injure or take a water vole;
- Possess or control live or dead water voles or derivatives;
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection;
- Intentionally or recklessly disturb water voles whilst occupying a structure or place used for that purpose;
- Sell water voles or offer or expose for sale or transport for sale; and
- Publish or cause to be published any advertisement which conveys the buying or selling of water voles.

Under 16 (3) of the Wildlife and Countryside Act 1981(as amended) NRW are able to issue licences of relevance to water voles for the following purposes:

1. Scientific or Educational

A licence is required for the purpose of taking or disturbing a water vole or damaging or obstructing access to a breeding or resting place in order to carry out any kind of research or detailed survey

2. Ringing or marking
To take a water vole for the purpose of ringing or marking. This includes any type of mark, identification method or radio tracking tag
3. Conservation
Any activity carried out where the primary purpose of that activity is the long term conservation of water vole. This can include management or restoration of water vole sites
4. Protecting any zoological or botanical collection
5. Photography
6. Preserving public health or public safety
This may for instance be the restoration or maintenance of canals or footpaths beside rivers
7. Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries. This may relate to damage to the above caused by water voles

It is not possible to issue a licence for “development” under the Wildlife and Countryside Act in a similar way to some of the licences issued under the Habitats Regulations. Licences can be issued for the purpose of ‘preserving public health and public safety’ eg. restoration of a canal bank. However, not all developments fit under this heading.

The Wildlife and Countryside Act provides a defence against the above offences where the action is the incidental result of an otherwise lawful operation and could not reasonably be avoided (10(3)(c)).

Otter

Otters are fully protected by their inclusion in the Conservation of Habitats and Species Regulations 2017, known as the ‘Habitats Regulations’ and a priority species under the UK Post-2010 Biodiversity Framework.. They are also placed in Annex IV of the European Habitats Directive (92/43/EEC) and Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and it is therefore subject to the provisions of Section 9 and 11, which makes it an offence to:

- intentionally kill, injure or take an otter [Section 9 (1)];
- possess or control any live or dead specimen or anything derived from an otter [Section 9(2)];
- intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by an otter [Section 9(4) (a)];
- intentionally or recklessly disturb an otter while it is occupying a structure or place which it uses for that purpose [Section 9 (4)(b)]; and

- sell, offer for sale, possess or transport for the purpose of sale or publish advertisements to buy or sell an otter.

Natural Resources Wales issue licences under Regulation 55 of the Habitats Regulations to allow you to work within the law. The licence is issued for specific purposes stated in the Regulations, if the following three tests are met:

- The purpose of the work meets one of those listed in the Habitats Regulations;
- That there is no satisfactory alternative; and
- That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.

Reptiles

There are six species of native reptile in the UK. Only two species, smooth snake (*Coronella austriaca*) and sand lizard (*Lacerta agilis*) are fully protected under UK and European Legislation. They are listed on Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are:

- Adder, *Vipera berus*
- Grass snake, *Natrix natrix*
- Slow worm, *Anguis fragilis*
- Common lizard, *Lacerta vivipara*

These reptiles are also listed under Schedule 2 of the Conservation of Habitats and Species Regulations 2017, known as the 'Habitats Regulations'. Under these legislations it is unlawful to:

- deliberately or intentionally kill, injure or take (capture) or disturb sand lizards and smooth snakes;
- deliberately take or destroy the eggs of sand lizards;
- damage or destroy a breeding site or resting place, or intentionally damage a place used for shelter and protection;
- intentionally obstruct access to places used for shelter; and
- keep, transport, sell or exchange, or offer for sale or advertising.