

# **A Review of the Operation of Species Legislation in Great Britain (1999)**

Discontinued

## **King, M., Hepburn, I. and Gubbay, S.**

The following unpublished report was commissioned by the Joint Nature Conservation Committee and Wildlife and Countryside Link and written by Miles King, Ian Hepburn and Susan Gubbay. The views expressed in this unpublished report are those of the organisations and individuals consulted, and of the contractors. They do not necessarily reflect the views of the commissioning organisations.

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- Download [Appendix 1](#) (PDF, 35 kb) Example questionnaire.
- Download [Appendix 2](#) (PDF, 7 kb) List of organisations and individuals contacted and their involvement.
- Download [Appendix 3](#) (PDF, 1.82 mb) Table of Questionnaire responses. (This excel file has been divided into single sheets for easy download)
- Download [Appendix 4](#) (PDF, 77 kb) Complete list of issues and proposals.
- Download [Appendix 5](#) (PDF, 72 kb) List of Species on Schedules 5 and 8 and Species defined as Priority by the UK Biodiversity Group.
- Download [Appendix 6](#) (PDF, 75 kb) Case studies of individual species, groups of species and comparisons with other countries.
- Download [Appendix 7](#)(PDF, 16 kb) Data on Enforcement Proceedings



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## APPENDIX 1

### Review of Species Legislation Questionnaire

This project investigates the effectiveness of species protection legislation in Great Britain. We are particularly interested in the workings of Schedules 5 and 8 of the Wildlife and Countryside Act 1981, and the species protection measures afforded by the implementation of the EC Habitats and Species Directive and the Conservation of Seals Act. We are not investigating the effectiveness of Schedule 1 (Birds), nor Schedule 9 (Introductions).

We are also investigating the effectiveness of other measures, both statutory and non-statutory, in delivering species conservation, both for protected species and for unprotected but “priority” species as identified in the UK Biodiversity Action Plan process. This project runs in parallel with the ongoing consultation on Part 2 of the Wildlife and Countryside Act. We aim to keep the two processes as separate as possible.

This questionnaire is the first part of a three stage process designed to gather facts, experience and opinions from relevant organisations and individuals. We will interview selected organisations and discuss, in more depth, relevant cases and experience using the questionnaire as the basis for the interview. We have also organised a number of focus groups to address some of the key issues arising from the interviews. We hope to reach a broad consensus on the main issues and provide signposts towards options for improving species protection legislation.

Some of you will also be contacted to discuss other aspects of the project, principally a few detailed case-studies, comparisons with other European countries and collection of data on the enforcement of species legislation.

Please bring the questionnaire with you to your interview or the focus group to which you are invited. Please only post questionnaires back to us if you cannot attend a focus group or interview. The Questionnaire has been designed to be as user friendly as possible, but please do contact us for clarification if necessary.

**The questionnaire has four questions. Three tables are provided for your answers;**

1. Which are the relevant species?
2. What are the threats to those species?
3. Which species legislation measures could be/are useful in alleviating those threats? How effective are they?
4. Which measures other than the species legislation measures could be/are useful in alleviating those threats? How effective are they?

We will explore the reasons why various measures are effective or ineffective, and how they could become more effective, in the interviews and focus groups.

Some organisations are actively concerned with conserving many, even hundreds of different protected and BAP-listed species. To avoid placing an unacceptable burden on those of you in this situation please select a small number, between five and ten protected species and a similar number of BAP-listed unprotected species to illustrate the different threats and the measures available to deal with those threats. For example, choose species along the continuums from high profile, easy to identify species, to obscure, difficult to identify species, or those which benefit from measures acting on individuals, populations and habitat-based measures. Please do talk to us if you are unsure about which species to select.

Thank you for your time and interest.

*Miles King, Ian Hepburn and Sue Gubbay (project team)*

## **1. SPECIES YOU ARE ACTIVELY INVOLVED WITH**

**Question 1. Please select from the attached list (at Annex A) the species or species groups that your organisation is actively concerned with and write their names in the first column of table 1.**

**Please use the species you have chosen in the same sequence for all subsequent questions.**

## **2. THREATS TO SPECIES**

**Question 2. Please indicate on Table 1 the threats that you perceive to be significant for each species or species group, and the degree of significance you attach to each threat ( 3 - very significant; 2 - quite significant; 1 – limited significance). An example is included by way of illustration.**

The following is an indicative list of the main threats to species in Great Britain. These can be grouped broadly into 3 categories; effects on individuals; effects on habitat; wider processes.

- A. Disturbance of breeding sites
- B. Disturbance of roost sites/places of shelter
- C. Direct collection or killing
- D. Commercial exploitation
- E. Capture/killing incidental to human activity
- F. Destruction of habitat due to development
- G. Destruction of habitat due to agriculture/forestry/fisheries
- H. Destruction of habitat due to recreational use.
- I. Inappropriate habitat management
- J. No habitat management
- K. Pollution
- L. Other - please specify.



### **3. LEGISLATIVE MEASURES:**

**Question 3. Please indicate on Table 2 each legislative measure from the above lists that is actually or potentially useful in alleviating the threats you have identified in Table 1. Please also indicate how effective your organisation perceives each piece of legislation to be. (0 = not effective; 1 = quite effective; 2 = very effective). An example is included by way of illustration.**

The following are legislative measures specifically aimed at the conservation of species. Please note this section should not be filled in for species not on Schedules 5 or 8.

#### Protection for fauna on Schedule 5 of the Wildlife and Countryside Act (1981)

1. Section 9(1); Protects species from being killed, injured or taken
2. Section 9(2); Prohibits possession of the species
3. Section 9(4)(a); Prohibits damage or destruction of any structure or place used for shelter or protection, or obstructing access to this structure or place
4. Section 9(4)(b); Prohibits disturbing animals while they are occupying structures or places used for shelter or protection
5. Section 9(5)(a); Prohibits selling, offering or exposing for sale, possessing for the purpose of sale, or transporting for the purpose of sale the listed species
6. Section 9(5)(b); Prohibits publishing or causing to be published any advertisement offering to buy or sell the listed species

Species listed on Schedule 2 of the Conservation (Natural Habitats etc.) Regulations 1994 are protected under Regulation 39 as follows

For European protected animal species (and all stages of their life cycle):

7. Section 39(1)(a) prohibits deliberate capture or killing of the animal
8. Sub-section (b) prohibits deliberate disturbance of the animal
9. Sub-section (c) prohibits deliberate taking or destruction of eggs of the animal
10. Sub-section (d) prohibits damage or destruction of breeding site or resting site of the animal.
11. Section 39(2) prohibits keeping, transporting, selling or exchanging or offering for sale or exchange any live or dead animal, or anything derived from it.

#### Protection for seals under the Conservation of Seals Act 1970

12. Section 2 (1) annual close season for grey seals and common seals
13. Section 3(1) orders prohibiting killing, injuring or taking of seals with respect to any area specified.

#### Protection for flora on Schedule 8 of the Wildlife and Countryside Act (1981)

14. Section 13 (1)(a); Prohibits picking uprooting or destroying specified plants
15. Sub- Section 13(2)(a); Prohibits selling, offering or exposing for sale, possessing for the purpose of sale, or transporting for the purpose of sale specified plants
16. Sub- Section 13(2)(b); Prohibits publishing or causing to be published any advertisement offering to buy or sell specified plants

In addition, for species listed on Schedule 4 of the Conservation (Natural Habitats etc.) Regulations 1994 are protected under Regulation 43 as follows

17. Section 43(1) prohibits deliberate picking, collecting, cutting, uprooting or destruction of the plants concerned;
18. Section 43(2) prohibits keeping, transport, sale or exchange or offering for sale or exchange, any live or dead specimen of the plants concerned, or any derivative from such plants
19. Section 43(3) makes the Regulation apply to all stages of the plants' biological cycle;



#### **4. MEASURES OTHER THAN SPECIES LEGISLATION**

**Question 4. Please indicate on Table 3 the measures other than species legislation that are actually or potentially useful in protecting the species/species group(s) from the threats identified. Please also indicate your organisation's perception of the effectiveness of each measure (0 = not effective; 1 = quite effective; 2 = very effective)**

The following is a list of measures other than species legislation which currently mitigate threats to protected species

1. Species Recovery/Action Programmes
2. Use of agri-environment schemes (principally Countryside Stewardship and Environmentally Sensitive Areas) to support appropriate site management
3. Notification of sites supporting populations of species as SSSI or SAC.
4. Notification of sites supporting populations of species as Local Wildlife Sites.
5. Acquisition and/or management of areas with statutory protection e.g. SSSI by voluntary or statutory conservation organisations
6. Acquisition and/or management of areas with no statutory protection e.g. local nature reserves, country parks, voluntary marine conservation areas, marine consultation areas
7. Preparation and implementation of National Species Action Plans within the UK BAP process.
8. Preparation and implementation of Regional/Local Species Action Plans within the UK BAP process.
9. Policies in National Policy Planning Guidance notes and Technical Advisory Notes
10. Policies in Local Authority Plans
11. Local Authority-funded survey, monitoring or management projects
12. Protection of sites from development through planning control
13. National Park-funded survey, monitoring or management projects
14. Survey , monitoring or management undertaken by voluntary organisations or individuals outside species recovery programmes or BAP initiatives.
15. Publicity and information to raise awareness of legal protection to the general public
16. Publicity and information to raise awareness of legal protection to specific groups or organisations
17. Provision of advice on legal and ecological requirements to land-owners/managers; species wardening;
18. OTHER - please specify.



## Circulation List for Questionnaire

Agricultural Development Advisory Service  
Balfour-Browne Club  
Borders Regional Council  
Botanical Society of Scotland  
British Association of Nature Conservationists  
British Bryological Society  
British Ecological Society  
British Herpetological Society  
British Mycological Society  
British Pteridological Society  
Butterfly Conservation  
Crown Prosecution Service  
English Nature  
Farming & Rural Conservation Agency  
Friends of the Earth  
Game Conservancy Trust  
Gwynedd County Council  
Herpetological Conservation Trust  
International League for the Protection of Cetaceans  
Joint Committee for the Conservation of British Invertebrates  
Peter Maitland  
Marine Conservation Society  
Norman Moore  
National Farmers' Union for Wales  
National Trust  
Natural History Museum  
Margaret Palmer  
Plantlife  
Derek Ratcliffe  
Royal Botanic Gardens, Kew  
Royal Society for the Prevention of Cruelty to Animals  
Scottish Environment Protection Agency  
Scottish Natural Heritage  
Scottish Wildlife and Countryside Link  
UK Shark Trust  
Welsh Office  
Wildfowl & Wetlands Trust  
The Wildlife Trusts  
Working Group of Local Authority Ecologists  
Zoological Society of London

Amateur Entomologists' Society  
Bat Conservation Trust  
Botanical Society of the British Isles  
British Arachnological Society  
British Association for Shooting & Conservation  
British Dragonfly Society  
British Entomological & Natural History Society  
British Lichen Society  
British Phycological Society  
British Trust for Ornithology  
Countryside Council for Wales  
Department of Environment, Transport & the Regions  
Environment Agency  
Fauna & Flora International  
Froglife  
Greenpeace  
Hampshire County Council  
Institute for Ecology & Environmental Management  
Initiative for Scottish Insects  
Joint Nature Conservation Committee

Mammal Society  
Ministry of Agriculture, Fisheries & Food  
National Farmers' Union  
National Federation of Anglers  
National Trust for Scotland  
Otter Trust  
People's Trust for Endangered Species  
Pond Action  
Royal Botanic Gardens, Edinburgh  
Royal Entomological Society  
Royal Society for the Protection of Birds  
Scottish Initiative for Insects  
Scottish Office  
Alan Stubbs  
Wales Wildlife and Countryside Link  
Whale & Dolphin Conservation Society  
Wildlife Liaison Officers  
Woodland Trust  
World Wide Fund for Nature UK