Appendix 9.1 Annex A

Ornithological Legal Protection

RWE

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Annex A Ornithological Legal Protection

In Scotland, all wild birds are protected under the Wildlife and Countryside Act 1981 (the 'Act'), as amended by the Nature Conservation (Scotland) Act 2004. This protection also extends to their eggs and nests, with it being an offence to intentionally or recklessly[1]:

- Kill, injure or take any wild bird[2];
- Take, damage, destroy or otherwise interfere with the nest of any wild bird while it is being built or is in use[3];
- At any other time take, damage, destroy or otherwise interfere with any nest habitually used by any wild bird included in Schedule A1 (Protected Nests and Nest Sites for Birds: white-tailed eagle and golden eagle)[4];
- Obstruct or prevent any wild bird from using its nest[5]; or
- Take or destroy an egg of any wild bird[6].

It is also an offence to have in possession or control any live or dead wild bird or any part thereof; or any egg or part of an egg of any wild bird[7].

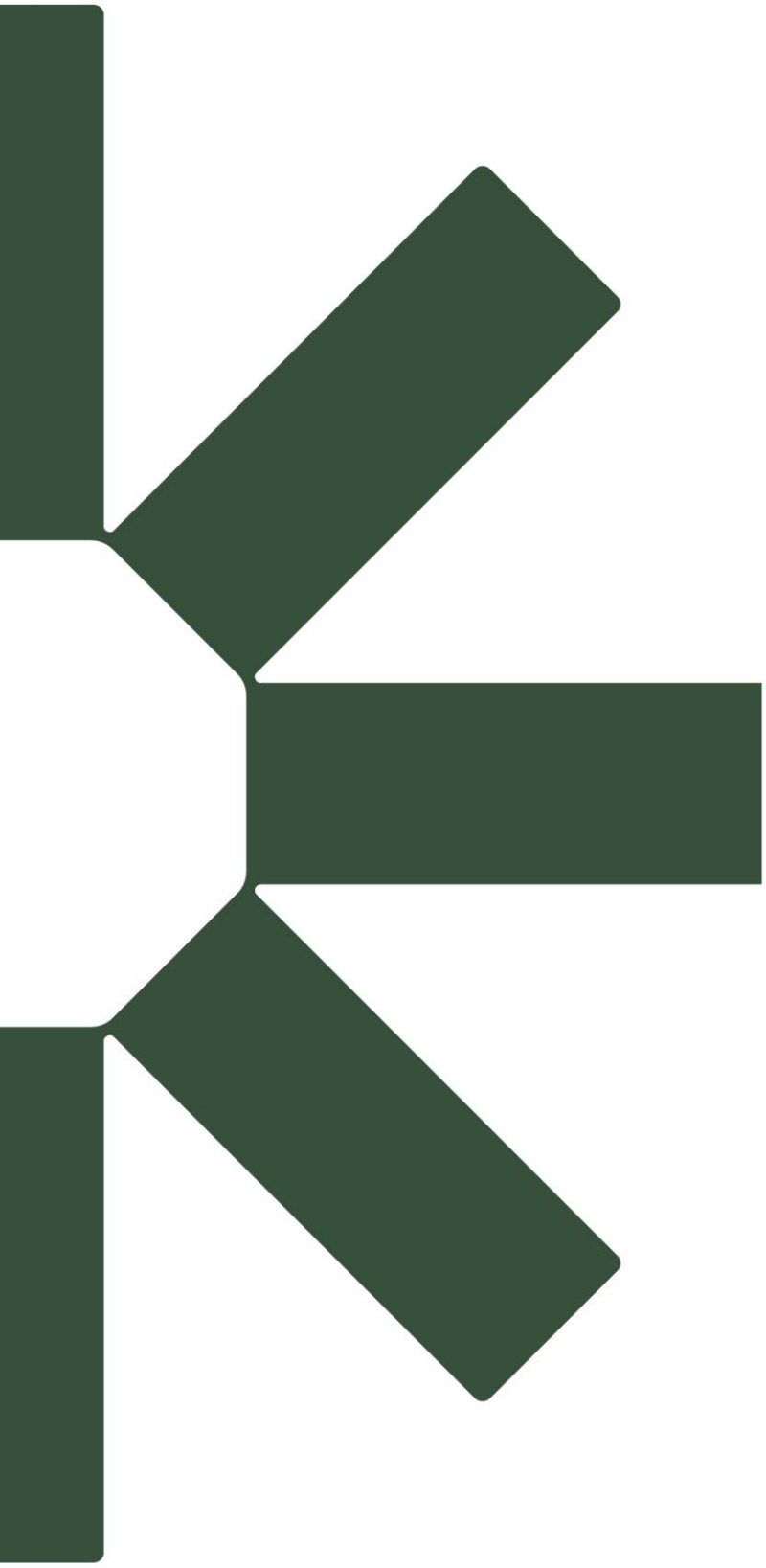
Further special protection under this legislation is afforded to those species listed on Schedule 1 of the Act. For these species, it is an offence to:

- Intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or is in, on or near a nest containing eggs or young, or disturb the dependent young of such a bird[8];
- Intentionally or recklessly disturb any wild birds included on Schedule 1 which leks, while it is doing so[9] (capercaillie is the only bird this offence applies to in Scotland);
- Intentionally or recklessly harass any wild bird included in Schedule 1A[10]. Section 1, subsection 5B states, 'Subject to the provisions of this Part, any person who intentionally or recklessly harasses any wild bird included in Schedule 1A shall be guilty of an offence'. At this time, Schedule 1A includes golden eagle, hen harrier, red kite and white-tailed eagle. This updated legislation was introduced on 16 March 2013; or
- Intentionally or recklessly take, damage, destroy or otherwise interfere with any nest and/or nest site habitually used by any bird on Schedule A1 at any time. At this time, Schedule A1 includes golden eagle and white-tailed eagle[11];

It is also an offence to knowingly cause or permit to be done an act which is made unlawful by any of the above provisions.

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[1] Exceptions to these offences exist under various circumstances (e.g. controlling pest species; taking birds during specific season; and killing sick or injured birds etc.).
[2] Wildlife and Countryside Act 1981, Section 1(1)(a)
[3] Wildlife and Countryside Act 1981, Section 1(1)(b)
[4] Wildlife and Countryside Act 1981, Section 1(1)(ba)
[5] Wildlife and Countryside Act 1981, Section 1(1)(bb)
[6] Wildlife and Countryside Act 1981, Section 1(1)(c)
[7] Wildlife and Countryside Act 1981, Section 1(2)
[8] Wildlife and Countryside Act 1981, Section 1(5)
[9] Wildlife and Countryside Act 1981, Section 1(5A)
[10] Wildlife and Countryside Act 1981, Section 1(5B)
[11] This reflects the changes introduced by the Wildlife and Countryside Act 1981 (as amended by: Variation of Schedules A1 and 1A (Scotland) Order 2013.



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