

Consolidated text

ORDINANCE
OF THE STATES OF ALDERNEY

ENTITLED

The Protection of Wild Birds (Alderney) Ordinance, 2005 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from the Greffier, The Court of Alderney, Queen Elizabeth II Street, Alderney, GY9 3TB.

© States of Alderney

* Alderney Ordinance No. II of 2005; as amended by the Animal Health and Protection of Wild Birds (Alderney) (Amendment) Ordinance, 2006 (Alderney Ordinance No. IV of 2006).

**ORDINANCE
OF THE STATES OF ALDERNEY**

ENTITLED

The Protection of Wild Birds (Alderney) Ordinance, 2005

ARRANGEMENT OF SECTIONS

1. Definitions.
2. Injury or distress caused to any Wild Bird.
3. Protection of Wild Birds.
4. Appointment of Bird Wardens.
5. Wild Bird Cull.
6. Possession of Wild Birds.
7. Offences.
8. Penalties.
- 8A. Action pursuant to 2002 Ordinance.
- 8B. Interpretation.
9. Area of application.
10. Repeals.
11. Citation and Commencement.

SCHEDULE 1

SCHEDULE 2

(Made on the 23rd March, 2005.)

The Protection of Wild Birds (Alderney) Ordinance, 2005

THE STATES OF ALDERNEY, in exercise of the powers conferred upon them by section 46 of the Government of Alderney Law, 1987^a hereby order: –

Definitions.

1. In this Ordinance the following expressions shall have the meanings respectively assigned to them –

"Committee" means the States General Services Committee,

"Constable" means any Member of the Guernsey Island Police Force on duty in Alderney or a Special Constable, when on duty,

"Court" means the Court of Alderney,

"Island" means the Islands of Alderney, Burhou, Ortac and all rocks and islets within the territorial waters thereof and includes the territorial waters.

Injury or distress caused to any Wild Bird.

2. (a) Where any person –
- (i) affixes, places, or sets a spring, spring-trap, gun, gin, snare net, or other similar instrument calculated to cause bodily injury to any wild bird coming into contact therewith, or

^a Ordres en Conseil Vol. XXX, p. 37.

Consolidated text

- (ii) knowingly permits or suffers or causes any such instrument to be affixed, placed, or set, or
- (iii) takes or attempts to take any wild bird by means of a hook or other similar instrument, or
- (iv) uses bird lime or any substance of a like nature for the purpose of taking or attempting to take any wild bird, or
- (v) uses any bird, whether wild or domestic, as a decoy for the purpose of taking or attempting to take any wild bird,

he shall be guilty of an offence under this Ordinance.

(b) A person who keeps or confines a wild bird in a cage or other receptacle is guilty of an offence under this Ordinance, unless the bird is kept or confined –

- (i) for the rendering of first aid or veterinary treatment, or
- (ii) for breeding and is a game bird, or
- (iii) whilst being conveyed by land, water, or air, or
- (iv) whilst being exhibited during not more than seventy-two consecutive hours at a show.

Protection of Wild Birds.

3. It shall not be lawful at any time hereafter for any person to kill, injure

or take or attempt to kill, injure or take any wild bird, or to take or destroy or (except in the ordinary course of farming or forestry operations) knowingly or wilfully to disturb eggs or nests of any wild bird, with the following exceptions –

- (a) birds and the eggs and nests of birds specified in Schedule 1 and, in the months of October, November, December and January, birds but not the eggs and nests of birds specified in Schedule 2,
- (b) birds taken or killed or eggs or nests taken or destroyed in accordance with an authority contained in a certificate granted under section 5 of this Ordinance.

Appointment of Bird Wardens.

- 4. (a) The States may by Resolution appoint a person or persons to act as Bird Wardens for the purpose of assisting in the enforcement of this Ordinance.
- (b) The appointment shall be for such term and subject to such conditions as the States may resolve and may also be revoked by Resolution at any time without giving reasons therefor.

Wild Bird Cull.

- 5. (a) Notwithstanding any of the provisions of this Ordinance, the Committee may grant a certificate for such period as may be specified therein (save that such period shall not exceed one year in respect of any one grant), authorising any person to kill or take or attempt to kill or take within an area specified in the said certificate, wild birds, their eggs or nests which would otherwise be protected under this Ordinance but only for any of the following purposes –

Consolidated text

- (i) for supplying an order received from any zoological garden to which the public is admitted or from any public museum, [...]
- (ii) for such scientific ecological or environmental purposes as may be approved by the Committee,
- (iii) for the purposes of culling a species or type of bird specified in the certificate where in the opinion of the Committee such culling is necessary by reason of a population growth of that species or type such as to be a public nuisance:

Provided always that such culling shall be effected only by means of the taking, shaking or pricking of eggs, or any other means of culling specifically specified in the certificate issued by the Committee,

- (iv) (a) for the purpose of culling, within the boundaries or within the immediate vicinity of Alderney Airport, a species or type of bird specified in the certificate where in the opinion of the Committee the culling is necessary by reason of –

- (A) a population growth of that species or type such as to be a public nuisance, or

- (B) the presence of birds of that species or

type constituting a danger to air navigation.

- [(v) for the purposes of culling a species or type of bird specified in the certificate where in the opinion of the Committee such culling is necessary to prevent the spread of any compulsory slaughter disease to which birds are susceptible,]
- (b) Any such certificate shall be renewable from time to time by the Chairman on its expiry and revocable at any time by him in his absolute discretion.
- (c) Such certificate shall be carried by the holder when acting under the powers therein contained and shall be exhibited by the holder on demand by a Constable or Bird Warden requesting the exhibition hereof.

NOTE

In section 5, the word omitted in square brackets in paragraph (a)(i) was repealed, and paragraph (a)(v) was inserted, by the Animal Health and Protection of Wild Birds (Alderney) (Amendment) Ordinance, 2006, respectively section 2(2)(a) and section 2(2)(b), with effect from 19th April, 2006.

Possession of Wild Birds.

6. (a) Where without lawful authority or reasonable excuse (proof whereof lies on him) any person has in his control or possession any wild bird or the plumage or skin or part of any wild bird, or the egg or nest of any wild bird, at any time when it is unlawful to take such bird, egg or nest, he shall be guilty of an offence under this Ordinance.

[(c)] Where any person shall be found apparently offending against this Ordinance, he shall, upon being requested to do so by a Constable or Bird Warden, give his full names and address, and in case the person so apparently offending shall, after being requested, fail or refuse to give his real names or address or give an untrue name or address, he shall be guilty of an offence under this Ordinance.

NOTE

The letter and parentheses in square brackets shown, incorrectly, in the printed version of this section as "(c)" should read "(b)".

Offences.

7. A person who contravenes or fails to comply with any provision of this Ordinance is guilty of an offence.

Penalties.

8. (a) A person guilty of an offence under this Ordinance is liable on conviction to a fine not exceeding level 3 on the Alderney uniform scale
- (b) imprisonment for a term not exceeding 2 months, or both.
- (c) In addition to any other penalty which the Court has power to inflict for offences against this Ordinance, the Court may order that any bird, plumage, skin or part of any wild bird or the egg or nest in respect of which the offence was committed shall be forfeited and disposed of it at its discretion, and may order any spring, gin, gun, trap, net, snare, decoy or other instrument in respect of which or by means of which the offence was

committed to be forfeited or otherwise dealt with as the Court may direct, and shall also order that any certificate or licence given under this Ordinance and held by the person convicted shall be cancelled.

[Action pursuant to 2002 Ordinance.]

8A. Nothing in the preceding provisions of this Ordinance shall be construed as rendering unlawful anything done in good faith pursuant to the Animal Health (Alderney) Ordinance, 2002.]

NOTE

Section 8A was inserted by the Animal Health and Protection of Wild Birds (Alderney) (Amendment) Ordinance, 2006, section 2(3), with effect from 19th April, 2006.

[Interpretation.]

8B. (1) In this Ordinance, unless the context otherwise requires –

"compulsory slaughter disease" shall have the meaning in section 32 of the Animal Health (Alderney) Ordinance, 2002, and

"wild bird" means any bird in a wild state and, except for the purposes of –

- (a) section 2(b), and
- (b) section 3, insofar as it applies to the taking of birds or the taking, destruction or disturbance of eggs or nests,

includes any bird in a feral state or which reasonably appears to have been abandoned.

(2) The Interpretation (Guernsey) Law, 1948 applies to the interpretation of this Ordinance.]

NOTE

Section 8B was inserted by the Animal Health and Protection of Wild Birds (Alderney) (Amendment) Ordinance, 2006, section 2(3), with effect from 19th April, 2006.

Area of application.

9. This Ordinance shall apply to the Island.

Repeals.

10. The Protection of Wild Birds (Alderney) Ordinance, 1950^[c] as variously amended^{[d][e]}, is hereby repealed.

NOTE

The footnotes in square brackets shown, incorrectly, in the printed version of this section as "c", "d" and "e" (there is no footnote "b" in the original and the corresponding reference, "b", is shown, incorrectly, as therein included) should read, respectively, "b", "c" and "d"; and the corresponding references shown, incorrectly, in the printed version of this section as "d", "e" and "f" should read, respectively, "b", "c" and "d".

Citation and Commencement.

11. This Ordinance may be cited as the Protection of Wild Birds (Alderney) Ordinance, 2005 and shall come into force immediately.

-
- c** No. IV of 1950.
d No. V of 1986.
e No. X of 1996.

NOTE

The Ordinance was made and came into operation on 23rd March, 2005.

SCHEDULE 1

Carrion Crow (*Corvus corone corone*)

Hooded Crow (*Corvus corone cornix*)

Magpie (*Pica pica*)

Wood Pigeon (*Columba palumbus*)

Pheasant (*Phasianus colchicus*)

Jackdaw (*Corvus monedula*)

SCHEDULE 2

Snipe (*Gallinago gallinago*)

Woodcock (*Scolopaz rusticola*)

Partridge (*Perdix perdix*)