

2011 No. 2015

WILDLIFE, ENGLAND AND WALES

**The Wildlife and Countryside Act 1981 (Variation of Schedules
5 and 8) (England and Wales) Order 2011**

<i>Made</i>	- - - -	<i>11th August 2011</i>
<i>Laid before Parliament</i>		<i>22nd August 2011</i>
<i>Laid before the National Assembly for Wales</i>		<i>22nd August 2011</i>
<i>Coming into force</i>	- -	<i>1st October 2011</i>

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales—

- (a) have received a representation made to them by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the Natural Environment and Rural Communities Act 2006(a);
- (b) in accordance with section 26(4)(a) of the Wildlife and Countryside Act 1981(b), have given any local authority affected and any other person affected an opportunity to submit objections or representations with respect to the subject matter of this Order;
- (c) are of the opinion that the animals and plants referred to in articles 2(2), (5), (6) and 3(2) of this Order are in danger of extinction in Great Britain or likely to become so endangered unless conservation measures are taken; and
- (d) are of the opinion that the animals and plants referred to in articles 2(3) and 3(3) of this Order are no longer so endangered or likely to become so endangered.

In exercise of the powers conferred on them by section 22(3) of the Wildlife and Countryside Act 1981(c), the Secretary of State and the Welsh Ministers make the following Order.

Citation, commencement and extent

1. This Order—

- (a) may be cited as the Wildlife and Countryside Act 1981 (Variation of Schedules 5 and 8) (England and Wales) Order 2011;
- (b) comes into force on 1st October 2011; and

(a) 2006 c. 16.

(b) 1981 c. 69. The functions of the Secretary of State under section 26(4), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and were subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(c) Section 22(3) was amended by paragraph 11(5) of Schedule 9 to the Environmental Protection Act 1990 (c. 43), and paragraph 74(1) and (2) of Schedule 11, and Schedule 12, to the Natural Environment and Rural Communities Act 2006. The functions of the Secretary of State under section 22(3), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and were subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

(c) extends to England and Wales only(a).

Variation of Schedule 5

2.—(1) Schedule 5 to the Wildlife and Countryside Act 1981(b) (animals which are protected) is amended as follows.

(2) Insert, at the appropriate place in each case, the animals listed in Schedule 1.

(3) Omit the animals listed in Schedule 2.

(4) In the entry relating to “Lagoon Worm, Tentacled”, in the first column, after “Tentacled” insert “(in respect of section 9(4)(a) only)”.

(5) In the entry relating to “Shad, Twaite”, in the first column, for “section 9(4)(a)” substitute “section 9(1) and (4)(a)”.

(6) In the entry relating to “Shark, Angel”, in the first column, for the words from “(in respect of” to “waters, only)” substitute “(in respect of section 9(1), (2) and (5) only)”.

(7) In the entry relating to “Shrimp, Lagoon Sand”, in the first column, after “Sand” insert “(in respect of section 9(4)(a) only)”.

(8) Omit Note 2.

Variation of Schedule 8

3.—(1) Schedule 8 to the Wildlife and Countryside Act 1981(c) (plants which are protected) is amended as follows.

(2) Insert, at the appropriate place in each case, the plants listed in Schedule 3.

(3) Omit the plants listed in Schedule 4.

11th August 2011

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

9th August 2011

John Griffiths
Minister for Environment and Sustainable Development,
one of the Welsh Ministers

SCHEDULE 1

Article 2(2)

Animals Added to Schedule 5 to the Act

<i>Common name</i>	<i>Scientific name</i>
Frog, Pool (Northern Clade) (in respect of section 9(4)(b) and (c)(d) only and with respect to England only)	<i>Pelophylax lessonae</i>
Moth, Talisker Burnet (in respect of section 9(5) only)	<i>Zygaena lonicerae</i> subspecies <i>jocelynae</i>
Moth, Slender Scotch Burnet (in respect of section 9(5) only)	<i>Zygaena loti</i> subspecies <i>scotica</i>

(a) By virtue of section 27(5) of the Wildlife and Countryside Act 1981, Part I of that Act extends to the territorial waters of Great Britain, and for the purposes of that Part England and Wales are to be taken to include the adjacent territorial waters.

(b) As previously varied in relation to England and Wales by S.I. 1988/288, 1989/906, 1991/367, 1992/2350, 1998/878, 2007/1843, 2008/431, 2008/1927, 2008/2172.

(c) As previously varied in relation to England and Wales by S.I. 1988/288, 1992/2350, 1998/878, 2007/1843.

(d) Section 9(4) was substituted by S.I. 2007/1843, regulation 7(1) and (4).

Skate, White (in respect of section 9(1), (2) and (5) only) *Rostroraja alba*

SCHEDULE 2 Article 2(3)
Animals Removed from Schedule 5 to the Act

<i>Common name</i>	<i>Scientific name</i>
Moth, Essex Emerald	<i>Thetidia smaragdaria</i>
Lagoon Snail	<i>Paludinella littorina</i>

SCHEDULE 3 Article 3(2)
Plants Added to Schedule 8 to the Act

<i>Common name</i>	<i>Scientific name</i>
Rock Nail	<i>Calicium corynellum</i>
Tree Lungwort (in respect of section 13(2) only)	<i>Lobaria pulmonaria</i>

SCHEDULE 4 Article 3(3)
Plants Removed from Schedule 8 to the Act

<i>Common name</i>	<i>Scientific name</i>
Helleborine, Young's	<i>Epipactis youngiana</i>
Lecanactis, Churchyard	<i>Lecanactis hemisphaerica</i>
Moss, Dune Thread	<i>Bryum mamillatum</i>
Threadmoss, Long-leaved	<i>Bryum neodamense</i>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to England and Wales, varies Schedules 5 and 8 to the Wildlife and Countryside Act 1981. Schedule 5 lists animals protected under section 9 of that Act, and Schedule 8 lists plants protected under section 13 of that Act.

Article 2 amends Schedule 5 (animals which are protected) by—

- (a) adding four new animals and conferring limited protection on these animals;
- (b) extending the protection afforded to two animals, and decreasing the level of protection afforded to two animals; and
- (c) removing two existing entries from protection.

The amendment relating to “Shark, Angel” removes the exclusion from the protection afforded to the Angel Shark in respect of the excluded waters (the part of the territorial waters adjacent to England and Wales which is more than 6 nautical miles from the baselines from which the breadth of those waters are measured), and thus extends the protection afforded to the Angel Shark throughout the territorial waters adjacent to England and Wales.

Article 3 amends Schedule 8 (plants which are protected) by—

- (a) adding two new plant entries, conferring general protection on one plant type and limited protection on the other; and
- (b) removing four existing entries from protection.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from <http://www.defra.gov.uk/corporate/consult/wildlife-act/100127-wildlife-act-condoc-ia.pdf>.