

# STATES OF JERSEY



Jersey

## DRAFT WILDLIFE (JERSEY) LAW 202-

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Lodged au Greffe on 11th September 2020  
by the Minister for the Environment

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STATES GREFFE





Jersey

## **DRAFT WILDLIFE (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for the Environment has made the following statement –

In the view of the Minister for the Environment, the provisions of the Draft Wildlife (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy J.H. Young of St. Brelade**  
*Minister for the Environment*

Dated: 9th September 2020



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## REPORT

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### Detail

This new primary legislation for nature conservation purposes, entitled the Draft Wildlife (Jersey) Law 202- (the “Wildlife Law”), has been prepared to replace the existing [Conservation of Wildlife \(Jersey\) Law 2000](#) following the Minister’s request to draft new legislation ([MD-PE-2018-0027](#)).

The new legislation will provide a clear and effective framework for the protection, regulation and enforcement of activities affecting protected species and habitats in Jersey, meeting current international standards and ensuring compliance with the Island’s strategic and international responsibilities to protected wildlife.

The Minister for the Environment gave his approval in respect of the drafting of the Wildlife Law in March 2018. The draft Law has since been subject to public consultation and has been reviewed and approved by the Environment, Housing and Infrastructure Scrutiny Panel and Law Officers.

It is anticipated that once debated and if approved by the States Assembly, the Wildlife Law will be forwarded to the Privy Council for sanctioning. The existing Conservation of Wildlife (Jersey) Law 2000 and associated [Animals \(Trapping\) \(Jersey\) Law 1961](#) will be repealed on the date that the Wildlife Law comes into force.

### Background

In MD-PE-2018-0027, the Minister for the Environment agreed to provide new primary legislation for nature conservation purposes, to replace the outdated Conservation of Wildlife (Jersey) Law 2000.

The Draft Wildlife (Jersey) Law 202- revises and updates the statutory protection of wild animals, wild birds and wild plants in Jersey. The Law provides a strengthened legal and administrative framework for the regulation and enforcement of activities affecting wildlife, that meets current international standards and ensures compliance with the Island’s strategic and international responsibilities. The Law makes new provision to control invasive non-native species, and creates a duty for public bodies to promote biodiversity in Jersey.

Legislation for the protection of wildlife is an essential tool in enabling Jersey to fully comply with its international obligations for the conservation of biodiversity. These obligations are laid out in a number of multi-lateral environmental agreements (“MEAs”) that have been extended to Jersey, notably –

- The Convention on Biological Diversity (the “Rio Convention”) (CBD);
- The Convention on the Conservation of European Wildlife and Natural Habitats (the “Bern Convention”);
- The Convention on the Conservation of Migratory Species of Wild Animals (the “Bonn Convention”) and associated Protocols and Agreements that have been extended to Jersey.

The responsibilities arising under these MEAs range from general obligations to conserve and enhance biodiversity to species-specific measures concerning rare or threatened species.

The Conservation of Wildlife (Jersey) Law 2000 established a sound framework to transpose these international obligations at domestic level.

In the 16 years since the enactment of the Conservation of Wildlife (Jersey) Law 2000, the pressures on biodiversity worldwide have increased significantly, through, for example, habitat loss, climate change and the spread of invasive non-native species. MEA member countries have agreed new targets to conserve biodiversity and have revised lists of species requiring urgent action to address declines. The need to take action to control the spread of invasive non-native species has come to the forefront in the face of far reaching impacts being caused to the environment, the economy and other sectors of society.

Research and developments in the field of species conservation have informed and changed the ways in which measures to conserve and enhance biodiversity are undertaken.

As part of the same member state as the United Kingdom, Jersey must ensure that domestic legislation and policy is regularly reviewed and updated to ensure full compliance with international obligations and standards, on the same basis as the United Kingdom. Wildlife populations in Jersey suffer similar threats to those in the UK, the Island being particularly vulnerable to the impacts of pressure for development, climate change and the introduction of invasive non-native species to the Island. Jersey is also host to a number of species of wild animal, bird and plant that are of European and international concern.

### **Overview of the draft legislation**

The Draft Wildlife (Jersey) Law 202- provides a modern approach to wildlife conservation that is commensurate with international standards, enabling Jersey to fulfil its MEA obligations within an island context, and providing the legal framework for implementing local policy objectives for conserving biodiversity.

The Draft Wildlife (Jersey) Law 202- provides a strengthened, but flexible, framework that enables the Minister for the Environment to regulate and enforce activities affecting protected species effectively and efficiently. The legislation has the flexibility to respond to further developments such as changes in conservation status of individual species and changing MEA priorities.

The main areas of change to the existing legislation brought about through the Draft Wildlife (Jersey) Law 202-, are, in brief, but not all –

- **‘Wild animal’ and ‘wild bird’**

The Draft Wildlife (Jersey) Law 202- clarifies the definitions given for ‘wild animal’ and ‘wild bird’ for the purposes of the Law, in order to exclude from the protection provisions wild populations of animals and birds that were originally captive bred or domestic, as well as invasive non-native species.

- **Schedules and levels of protection for wild animals, birds and plants**

Under the Conservation of Wildlife (Jersey) Law 2000, all protected wild animals, birds and plants are afforded the same level of protection. The Draft Wildlife (Jersey) Law 202- confers two general levels of protection. The base level relates to protected wild animals, protected wild birds and protected wild plants. Higher levels of protection are conferred on certain species, taking into account their distribution, threat and rarity. These varied levels of protection are reflected in the Schedules to the Law, which specify various categories of wildlife and the protections applicable to each.

These varied levels of protection are defined and periodically reviewed according to a set of criteria relevant to Jersey whilst meeting International Union for Conservation of Nature (IUCN) criteria and guidelines.

- **Protection of dens, nests, breeding sites and resting sites**

Whilst the Conservation of Wildlife (Jersey) Law 2000 protects the dens and nests of protected wild animals and wild birds whilst in use or being built, the Draft Wildlife (Jersey) Law 202- provides that a den or nest may be ‘in use’ even if it is temporarily unoccupied.

New offences are created –

- for the interference, at any time, with the nests and dens of certain wild birds and wild animals, where the same nest or den is relied upon for breeding success from year to year;
- for the interference with the breeding sites and resting places of certain wild animals and wild birds, such as hibernation sites and migratory stopovers;
- for the deliberate disturbance caused to certain protected wild birds and wild animals, whether or not these are within the vicinity of a nest or den.

- **Areas of Special Protection**

The Draft Wildlife (Jersey) Law 202- empowers the Minister for the Environment to make Orders designating Areas of Special Protection (“ASP”) and to make further provision for protection within such Areas of specified wild animals, wild birds or wild plants, including provisions restricting access and prohibiting particular acts or activities. An ASP may be applied temporarily, such as during the breeding season for a particular species, or all-year round. The Order is made subject to prior notice given to owners and occupiers within the Area, who have a right of appeal.

- **Methods of killing or taking all wild birds and wild animals**

An important element of wildlife legislation is the control of the possession and use of harmful devices and methods of taking or killing all wildlife.

The Draft Wildlife (Jersey) Law 202- builds upon existing controls by creating a new Schedule of regulated devices, substances and activities, which may be updated and amended to take account of developments in good practice techniques and devices available. The Schedule allows for exceptions to be made where the taking is for the purposes of education or conservation (such as in the use of nets for ‘pond dipping’ by school children).

The repeal of the Animals (Trapping) (Jersey) Law 1961 with the enactment of the Wildlife (Jersey) Law 202- will enable the regulation of the possession and use of methods of capture under a single piece of primary legislation.

- **Release of animals, birds and plants into the wild**

The Wildlife (Jersey) Law 202- makes it an offence for a person deliberately to release, or recklessly to allow to escape into the wild, an animal or bird of an invasive non-native species (the “INN species”). A species is considered “invasive” if uncontrolled, it would be likely to have a significant adverse impact on the

biodiversity of Jersey, or other environmental, social or economic interests of the Island. A “non-native” species is one which does not naturally occur in the wild in Jersey, nor regularly visits Jersey, at any point in the life cycle of that species, in a wild state. It is also an offence under the Law to deliberately release permanently into the wild an animal or bird which is not of an INN species, except for certain exceptions that are listed in a Schedule to the Law.

- **Species Control Agreements and Species Control Orders**

The Draft Wildlife (Jersey) Law 202- empowers the Minister to appoint authorised officers to carry out functions in connection with the control of INN species. These include powers for the purposes of investigating whether INN species are present, as well as for seizure, recording and taking samples. Authorised officers are empowered to enter into species control agreements with the owner of premises on which an INN species is present, and to take action to enforce species control orders in the event that an owner refuses to enter into or to comply with a species control agreement. Provision is made for an appeal to be made against a species control order, and the Minister and authorised officers are required to minimise the impact of species control operations and to ensure that they are proportionate.

- **Duty to promote the conservation of biodiversity**

The Draft Wildlife Law 202- provides for the designation and publication of strategies for the conservation of biodiversity in Jersey, including lists of species and habitats considered to be of principal importance in furthering conservation of biodiversity. Public bodies are required to have regard to promoting the conservation of biodiversity and to publish regular reports on actions taken in pursuance of that duty.

- **Licences**

Provisions for licensing of certain acts and activities to exempt them from being treated as offences are updated and extended within the Draft Wildlife (Jersey) Law 202-. The Minister for the Environment may only grant licences for specified purposes and if satisfied that the course of action authorised by the licence is the only satisfactory one and will not be detrimental to the survival of the wildlife population in question. A licence may be granted subject to compliance with certain conditions and a prescribed fee may be charged by the Minister. An appeal may be made against the Minister’s decision in relation to grant or refusal of a licence.

Other examples of powers conferred by the Wildlife (Jersey) Law 202-, in brief, but not all –

- to issue guidance as to the application of provisions of the Law, and a failure to comply with guidance being taken into account by the court in any proceedings under the Law;
- general powers of search and entry by police officers or authorised officers who suspect with reasonable cause that an offence under the Law is, or has been committed, and to seize premises and things found upon them.



## **Penalties**

Enforcement in support of the control measures is provided by power to apply penalties. All offences under the Draft Wildlife (Jersey) Law 202- carry a standard penalty of imprisonment for 2 years and a fine, with the exception of certain offences that carry a penalty of 12 months and a fine, these include offences for interference with active nests or dens, the use of prohibited methods of capture, offences involving protected wild plants, and the breach of licence conditions.

Penalties are calculated separately where an offence has been committed in respect of more than one animal, bird, nest, egg, plant or other thing to which the offence relates.

## **Consultation**

A wide range of stakeholders have been consulted, with no adverse comments returned.

In December 2016 the Natural Environment – Government of Jersey carried out the first Quinquennial Review of the existing Schedules of wild animals, wild birds and wild plants that are protected under the Conservation of Wildlife (Jersey) Law 2000. The outcome of the Review, which identified the need for amendment of the Schedules and for variation of protection levels, has been incorporated within the Draft Wildlife (Jersey) Law 202-.

In November 2019 the Draft Wildlife (Jersey) Law 202- was put to an Island wide public consultation, via an online questionnaire which sought Islanders' views on the main areas of change, and for general comments about the new law. This online consultation was supported by three public meetings, during which Islanders with a particular interest in environmental matters, as well as members of the general public were invited to join to learn more about the proposed changes and to raise questions. Internal meetings were also held within Government.

A wide range of stakeholders participated within the consultation, including organisations such as ecological consultants, charitable bodies, and interested individuals including academics, wildlife survey volunteers and individuals with a personal interest in the outcome of the project. Each area was supported by a clear majority of responses, and overall, the proposed new legislation was well-received.

A presentation on the Draft Wildlife (Jersey) Law 202- was also given to the Environment, Housing and Infrastructure Scrutiny Panel. The Panel has since considered and reviewed the final text of the Draft Wildlife (Jersey) Law 202-, with no adverse concerns raised.

The Draft Wildlife (Jersey) Law 202- has been drafted to achieve the Minister's decision and is considered compliant with the European Convention of Human Rights.

## **Financial and manpower implications**

One FTE officer support will be required to assist the officer in post to administer the law, particularly for the licensing and promotion and advisory/guidance aspects to ensure compliance. A bid is currently being submitted to the new Government Plan for this provision.

The increased regulation required will be undertaken in cooperation with officers from the newly created Regulation Section of Growth, Housing and Environment, thus keeping advisory/science and regulatory aspects separate.

**Human Rights Statement**

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**APPENDIX TO REPORT****Human Rights Notes on the Draft Wildlife (Jersey) Law 202-**

These Notes have been prepared in respect of the Draft Wildlife (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Data Law is compatible with the European Convention on Human Rights (“**ECHR**”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

**Article 6 ECHR**

Article 6 ECHR secures the right to a fair and public hearing by an independent and impartial tribunal established by law in the determination of civil rights and any criminal charge.

Articles 3 and 4 of the draft Law provide that an animal, bird or plant of a species listed in a Schedule to the Law and found in the possession of any person is presumed to be ‘wild’ unless the person proves that it is lawfully in that person’s possession and was bred in captivity (in respect of animals and birds), or had been cultivated (in respect of plants). Reverse burdens of proof engage Article 6, but may be justified where such is proportionate and reasonably necessary in all the circumstances.

In this context, the reverse burden is justified by the significant information imbalance between the defendant and the prosecution. Absent a reverse burden of proof, the prosecution would need to prove beyond reasonable doubt that an animal or bird had not been bred in captivity, or that the plant had not been cultivated. This may be straightforward in relation to some species, but more difficult with more popular species: there may be no obvious genetic differences between wild and captive-bred birds and animals, for example. The defendant could be reasonably expected to know the provenance of an animal, bird or plant found in his or her possession, so in most cases the burden of proof would not be too difficult to achieve. Consequently, these provisions are compatible with the requirements of Article 6 ECHR.

Articles 14 to 19, 22 and 24 of the draft Law create new strict liability offences in relation to the sale and export of animals and plants, the keeping of animals, the use of certain methods of killing or taking animals, the use of vehicles in hunting birds, and the possession etc. of regulated devices, substances and methods. These potentially engage Article 6(2) ECHR and the presumption of innocence in criminal proceedings. Once the elements of the offence are shown to have occurred, there are various provisions for the person charged to show that the elements of a relevant defence apply. In relation to many of the offences, the only defence available is that the action was taken under and in accordance with a licence. Both the European Court of Human Rights (the “**Court**”) and the UK domestic courts have considered whether offences of strict liability violate Article 6(2) ECHR and have concluded that they do not, provided that the prosecution retains the burden of proving that the offence was committed (*Salabiaku v France*).

In relation to the offences created by Articles 14(1) and 15(1) of the draft Law, once the elements of the offence have been established, a number of defences are available.

One of the defences in relation to both 14(1) and 15(1) shifts the burden of proof to the defendant: in both cases, a person doesn't commit an offence under paragraph (1) where an act which would otherwise constitute an offence under that paragraph relates to a dead protected wild animal or dead protected wild bird etc. which "is shown to have been killed otherwise than in contravention of this Law". This shifted burden of proof is compatible with the requirements of Article 6 ECHR because it applies to scenarios in which the defendant may be reasonably expected to know the origin of a dead animal or bird in their possession.

An exercise of the powers provided by Articles 30 (species control orders ("SCOs")), 35 (designation of Areas of Special Protection) and 36 (Minister's power to grant licences) of the draft Law may constitute a 'determination of civil rights' for Article 6 ECHR purposes. Property rights are almost invariably characterised as 'civil rights', even where a public law element is involved. Article 6 has previously been held by the Court to apply to decisions to impose restrictions on the right to develop property, to decisions that impose restrictions on the right to live in one's home, and to decisions affecting the right to fish and hunt. The Court has held that Article 6 will generally apply to any dispute concerning action taken by an administrative authority which has a direct and appreciable effect on the enjoyment or exercise of property rights or interests.

As such, the fair hearing guarantee under Article 6 ECHR is likely to apply to the decisions of the Minister made under Articles 30, 35 and 36 of the draft Law. In each case, the draft Law provides relevant affected individuals with a right to appeal to the Royal Court against the decision on certain prescribed, and sufficiently wide, grounds (Article 40). This ensures that the Minister's decision-making under the draft Law is subject to subsequent control by a judicial body with full jurisdiction, which provides the guarantees required by Article 6(1) ECHR.

### **Article 8 ECHR**

Article 8 ECHR is intended to protect individuals from arbitrary interference by public authorities in their private and family life, home and correspondence. As a qualified right, some interferences are permissible if for good public policy reasons such infringements are proportionate. An interference must accord with the conditions in Article 8(2): it must be provided for by law; pursue one of the legitimate aims set out in Article 8(2); and be "necessary in a democratic society", that is, proportionate to the aim pursued. This requires that a 'fair balance' is struck between the interests of affected individuals and the interest of the community.

The conservation of wildlife may be regarded as a 'legitimate aim' for Article 8 ECHR purposes, falling within scope of the aims "the protection of health or morals" and possibly also "the protection of the rights and freedoms of others" prescribed by Article 8(2). Since the social and technical aspects of environmental issues can be hard to assess, the appropriate public authorities are best placed to determine the measures which are "necessary". The Court accords the national authorities a margin of appreciation in the assessment of the need for an interference (*James v United Kingdom*).

A number of provisions of the draft Law engage, or potentially engage, Article 8 ECHR. These include the various prohibitions under Parts 2 and 3 that may have the effect of limiting what individuals may lawfully do within their homes; the enforcement and investigatory powers which may be exercised in relation to domestic premises; and the discretionary powers provided by the draft Law to apply species control measures and to designate areas of special protection, which may affect

individuals' private lives by interfering with their homes. The interferences are prescribed clearly in the draft Law which satisfies the 'lawfulness' requirement of Article 8 ECHR.

As regards the proportionality of the prohibitions in Parts 2 and 3, there is provision in each case for the prohibited acts to be carried out lawfully where a person acts under the authority of a licence granted by the Minister. This preserves the 'fair balance' between the legitimate aim and the interests of individuals where the effect of a prohibition is to impact upon what may be done within an individual's home.

Articles 27, 28, 42 and 43 of the draft Law provide enforcement and investigatory powers to certain officers, including powers of search and entry, and requiring the provision of information, all of which engage the right to privacy protected by Article 8 ECHR. The powers provided by Articles 27 and 28 may be exercised for the purposes of investigating whether an invasive non-natural species ("**INN species**") is present on any premises or in any vehicle, or for enforcing a SCO. Both of these measures are necessary to prevent and control threats to wildlife and biodiversity in Jersey, as authorities clearly need to be able to enforce the control framework established by the draft Law.

In terms of the proportionality of the powers granted by Articles 27 and 28, a number of limitations and safeguards minimise the interference with privacy so as to render it reasonable relative to the aim pursued. In the case of investigating whether an INN species is on any premises, an officer must act within the powers given to them. For example, an officer must have a 'reasonable suspicion' that such a species is present on the premises, the powers may only be used "at a reasonable hour", and may not be used in relation to premises used wholly or mainly as a private dwelling. Prior judicial restraint is required for access to premises, the importance of which is emphasised by the Court in *Funke v France*. Like safeguards apply to the exercise of powers under Articles 42 and 43, rendering them capable of satisfying the fair balance test.

An exercise of the powers granted to the Minister under Articles 30 and 35 for the designation of areas for protective purposes may result in the designation of land and property that would constitute 'home' under Article 8 ECHR. These discretionary powers are subject to a number of safeguards: for example, in relation to SCOs, before making any Order the Minister must be satisfied that its provisions are "proportionate to the objective to be achieved", and an SCO may only be made if the Minister has been unable to conclude a species control agreement with the owner of the premises, or if the circumstances demand urgent action. In relation to the designation of areas of special protection, the Minister will need to consider in each case the rights of individuals that may be affected by a particular designation. Where an exercise of powers by the Minister directly affects domestic premises, it is advised that further advice is sought from the Law Officers' Department.

### **Article 1, Protocol 1 ECHR ("A1P1")**

A1P1 provides that:

*"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."*

A1P1 is engaged by the draft Law to the extent that provisions interfere with individual property rights. An exercise of certain powers provided by the draft Law may result in ‘deprivations’, ‘controls of use’ or ‘interferences with enjoyment’ of the property of individuals. This applies particularly to the enforcement and investigatory powers provided by Articles 27, 28, 42 and 43, the Minister’s power to designate ‘Areas of Special Protection’ under Article 35, and to impose SCOs under Article 30 of the draft Law. In addition, the draft Law prohibits a number of acts and activities that may be damaging or harmful to wildlife, and these prohibitions constrain what individuals may lawfully do with their property. For example, Articles 9 to 12 prohibit the taking of certain actions in relation to nests, dens and breeding and resting sites of protected wild animals and birds. Articles 14 to 19 prohibit activities related to keeping and trading protected wild animals and birds.

A1P1 is a qualified right, and as such there may be limitations on the right to the extent that there is a legitimate aim, the limitation is prescribed in law and the measures used are proportionate.

Taking first the question of whether there is a legitimate aim, A1P1 permits a control of use of property in accordance with the general interest. The “general interest” may be, and has been, interpreted widely, and individual States have a significant margin of appreciation to determine the general interest. The Court has previously held the general interest to include measures for environmental protection purposes, including planning controls for the preservation of areas of natural beauty (*Herrick v United Kingdom*) and a shore conservation programme (*Uuhiniemi v Finland*). The purposes of the limitations referred to above, i.e. to protect wildlife and conserve biodiversity, are legitimate purposes which justify the limitations provided for under the draft Law, subject to satisfaction of the other conditions of A1P1 ECHR. Furthermore, the interferences are clearly prescribed in the draft Law, thereby satisfying the ‘lawfulness’ limb of the A1P1 test.

The final point to consider is proportionality. In ECHR terms, the requirement for measures to achieve a ‘fair balance’ between the general interest and the interests of individuals is not synonymous with a ‘least restrictive alternative’ test. Restrictive measures must be justified on the basis of a compelling case in the public interest and as being “reasonably necessary but not obligatorily the least intrusive of Convention rights” (*R. (Clays Land Housing Co-op) v The Housing Group (2005)*). Under A1P1, the payment of compensation in appropriate cases will be relevant to the fairness of the balance achieved between the community interest and individuals’ property rights. Where an interference with property amounts to a full deprivation of property, the Court has ruled that a ‘fair balance’ gives rise to a right to compensation in all but the most exceptional circumstances (*Lithgow v United Kingdom*).

The limitations in the draft Law satisfy the proportionality requirement in that they are reasonable and proportionate to the objectives which they are designed to secure. Acts which are prohibited under Parts 2 and 3 may be carried out lawfully where a person acts under the authority of, and in accordance with, a licence granted by the Minister. This provides an avenue for individuals to exercise their property rights where such is possible without undermining the general interest.

The exercise of the enforcement and investigatory powers provided in the draft Law can be seen as necessary to ensure compliance with the Law’s requirements. There is a clear public interest in ensuring that investigations can be properly conducted and that the necessary information to reach suitable conclusions can be obtained. A number of safeguards apply to an exercise of these powers: for instance, the requirement that powers of entry must be exercised at a “reasonable hour”, and the provision of additional protections in relation to domestic premises. The circumstances in which

the powers may be exercised are limited to those prescribed in the draft Law, and officers must act within the powers given to them. For example, if a police officer lacks “reasonable cause” for suspecting that a person is committing or has committed an offence, any search carried out pursuant to Article 42 of the draft Law would be unlawful. A failure to act lawfully within the legislation would mean that there would be the possibility of damages under Article 9(3) of the Human Rights (Jersey) Law 2000.

The enforcement and investigatory powers include powers to take possession of property, to take samples, and in relation to investigating the presence of invasive non-native species or enforcing a species control order, include powers to destroy any bird, animal or thing as is considered appropriate in the circumstances. Exercise of the power to destroy property is likely to constitute a ‘deprivation’ for AIP1 purposes, and where property is destroyed there is a presumption that compensation will be required in order to satisfy the Convention’s proportionality requirement. Whether compensation is required will need to be assessed on a case by case basis and will depend on the particular circumstances. The Minister has a discretionary power to make arrangements for the payment of compensation in appropriate cases in respect of financial loss in certain circumstances under Article 41 of the draft Law.

The draft provisions for the Minister to make SCOs, designate areas of special protection by Order, and grant licences authorising individuals to perform activities which would otherwise constitute offences under Parts 2 to 4 confer wide discretionary powers the exercise of which may engage AIP1. In each case, the power is indicated with sufficient precision, and is accompanied by basic procedural safeguards, in accordance with the requirements of the ECHR (*Hentrich v France*). In relation to SCOs for example, while the control operations required pursuant to the Order could amount to ‘controls of use’ of property, there is no difficulty in establishing that the controls pursue the general interest and fall within the margin of discretion to determine the most appropriate means of achieving this objective.

A number of procedural safeguards apply in relation to an exercise of the power to designate areas of special protection. The Minister is required to notify all occupiers and owners of land within the area that the Minister proposes to designate, and the Minister must give the reasons for making the designation, which supports the achievement of the requisite fair balance. Individuals may make representations to the Minister in relation to proposed designations, and the draft Law provides a right of appeal to the Royal Court, which provides relevant individuals who may be affected with the opportunity to seek a full review of the Minister’s decision both before and after the imposition of a designation (appeals may be made against both a notice of a proposed designation and a designating Order).

The discretionary licensing power provided by Article 36 allows the Minister to authorise a person to do anything which would otherwise constitute an offence under Parts 2 to 4 of the draft Law. This power has the potential to significantly affect individual property rights, as it provides the means by which individuals may carry out activities otherwise rendered unlawful by the draft Law, enabling the balance between public interest and individual interest to be attended to, and redressed where necessary, relative to individual circumstances. The licensing power is broad, which is helpful in facilitating the safeguarding of individuals’ legitimate property interests, but the purposes for which licences may be granted are limited so as not to undermine the wildlife protection scheme. As with the other discretionary powers provided by the draft Law, a number of procedural safeguards attach to the power to grant licences, and there is a right of appeal to the Royal Court against licensing decisions or the

conditions attaching to a licence. As such, the licensing power may be exercised compatibly with A1P1 ECHR.

Whether the proportionality requirement is satisfied by a particular exercise of powers under Articles 30, 35 or 36 will need to be evaluated on a case-by-case basis. Despite the in principle compatibility of these powers with ECHR rights, where the Minister intends to exercise the powers provided by the draft Law and such could amount to a deprivation of an individual's property rights, it is advised that advice is sought from the Law Officers' Department.



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## EXPLANATORY NOTE

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This Law revises and updates the statutory protection of Jersey wildlife (that is, animals, birds and plants), makes new provision to control invasive non-native species, and creates (by *Article 2*) a new duty for public bodies to promote biodiversity in Jersey.

**Part 1** deals with the interpretation and application of the Law. *Article 1* defines terms and concepts used in the Law as a whole. In particular, *Article 1(3)* defines how ‘deliberately’ (a key concept for the purpose of determining whether an offence under the Law has been committed) is to be interpreted. *Article 2* also sets out the general purpose of the law.

The Law confers two general levels of protection. The base level relates to protected wild animals, protected wild birds and protected wild plants, which are defined by *Articles 3* and *4*. Higher levels of protection are conferred on certain wild animals, wild birds and wild plants, as set out in *Article 5* which brings into effect the Schedules to the Law specifying various categories of wildlife and the protections applicable to each.

*Article 6* provides for the Law to extend to Jersey territorial waters, and to Crown land in Jersey.

**Part 2** deals with the protection of wild animals and wild birds. It creates a number of offences; in relation to most of these, there is a defence for acts authorised by licence (which means, as provided by *Article 1(1)*, a licence under Part 5).

*Article 7* provides that it is an offence deliberately to kill, injure or take a protected wild animal or bird (including, by virtue of the interpretation provision in *Article 1(2)*, the egg of any such animal or bird), except as authorised either by a licence or, in the case of destruction, under this Law, the Animal Health (Jersey) Law 2016 or the Animal Welfare (Jersey) Law 2004; or in cases of tending or humanely killing a disabled animal or bird, provided that certain conditions are fulfilled. A person guilty of an offence under this Article is liable to the standard penalty for the purposes of the Law (which is defined by *Article 1(1)*, taken with Article 13(2) of the Interpretation (Jersey) Law 1954, as imprisonment for up to 2 years and/or an unlimited fine). All offences under the Law described in this Note carry the standard penalty, unless otherwise indicated.

*Article 8* creates offences of various types of interference with dens and nests of protected wild animals and protected wild birds while in use or, in the case of nests, while being built. *Article 8(4)* provides that a den or nest may be “in use” even if it is temporarily unoccupied. Again, there are exceptions for certain cases where the act in question is authorised by a licence, or (except in relation to bats) occurs within the living area of a dwelling-house. Offences under this Article carry a penalty of imprisonment of up to 12 months and an unlimited fine.

Further protection is conferred by *Articles 9 and 10* respectively in relation to the dens or nests of protected wild animals of species listed in Part 1 of Schedule 3, and the nests of protected wild birds of species listed in Part 2 of that Schedule.

*Articles 11 and 12*, again applying respectively to protected wild animals listed in Schedule 4, and protected wild birds listed in Schedule 5, create prohibitions against taking eggs or dependent offspring from a breeding site, and against disturbance of eggs or dependent offspring in a breeding or resting site. There are differing levels of protection: where a species is listed in Part 1 of the relevant Schedule, the prohibition

applies at any time, and where a species is listed in Part 2 of the relevant Schedule, the prohibition applies whilst the site is in use or being built. It is also an offence to damage or destroy a breeding site, or to obstruct access by the animal or bird to its breeding site or resting site, or to do anything which has the effect of causing deterioration of the site, and again there are differing levels of protection.

*Article 13* creates an offence of deliberately disturbing a protected wild animal or protected wild bird of a species listed in Schedule 6.

*Article 14(1)* makes it an offence to sell, offer to sell, or possess or transport for the purpose of selling, any protected wild animal or protected wild bird or any part (including a blown egg) of such an animal or bird. By *Article 14(2)* it is also an offence to advertise buying or selling anything prohibited to be sold, etc.

*Article 15(1)* creates offences of keeping a protected wild animal or protected wild bird, whether alive or dead, or the blown egg of such an animal or bird. *Article 15(2)(b)* makes an exception for a dead protected wild animal or dead protected wild bird or part of such an animal or bird, which was killed otherwise than in contravention of the Law or was lawfully imported.

*Article 16* prohibits the use of certain devices, substances and methods to kill, injure or take wild animals or wild birds. The devices etc. prohibited in relation to wild animals are specified in Schedule 9, and those in relation to wild birds in Schedule 10. An exception is made by *Article 16(6)* where the taking is for the purposes of education or conservation and uses devices or methods specified by the Minister as being lawful. The Minister has power under *Article 51* to issue guidance (so as to make clear that, for example, ‘pond dipping’ by school children using nets would not be treated as an offence under this Article). The penalty for an offence under Article 16 is 12 months’ imprisonment and an unlimited fine.

*Article 17* specifically makes it an offence to use motorised vehicles to hunt protected wild birds of species listed in Schedules 3 or 5. *Article 18* creates a secondary offence of possessing anything capable of being used to commit an offence under Part 2, and also an offence of selling, etc., devices or substances listed in Schedules 10 or 11. The penalty for all offences under these Articles is the same as that for offences under Article 16.

*Article 19* makes it an offence to export protected wild animals or protected wild birds, whether alive or dead, and including any part of such an animal or bird which is dead.

*Article 20(1)* makes it an offence for a person deliberately to release, or recklessly to allow to escape into the wild, an animal or bird of an INN species. “INN species” means an invasive non-native species, as further defined by *Article 25*. It is also an offence, under *Article 20(2)*, deliberately to release or recklessly to allow to escape permanently into the wild an animal or bird which is not of an INN species, but an exception is made for the release of species listed in Schedule 12. The latter offence carries a penalty of 12 months and a fine of level 3 on the standard scale of fines (i.e. a maximum of £10,000, under the scale in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993).

**Part 3** deals with the protection of wild plants.

Offences of cutting, picking or gathering the whole or a substantial part of a protected plant; uprooting or destroying a protected plant; collecting propagules of a protected plant; and disturbing a protected plant or its habitat, are created by *Article 21*.

*Article 22(1)* makes it an offence to sell, offer to sell, or possess or transport for the purpose of selling, any protected plant or any part of such a plant. By *Article 22(2)* it

is also an offence to advertise buying or selling anything prohibited to be sold under paragraph (1).

*Article 23(1)* makes it an offence for a person deliberately to plant in the wild, or knowingly to cause or permit another person to plant in the wild, a plant of an INN species. It is also an offence, under *Article 23(2)*, deliberately to plant or recklessly to release into the wild any protected wild plant. Each of the offences in Articles 21 to 23 carries a penalty of imprisonment for up to 12 months and a fine of level 3.

*Article 24* makes it an offence to export protected wild plants, whether alive or dead, and including any part of such a plant which is dead.

**Part 4** deals with protection of the environment, and biodiversity.

*Article 25* gives the definition of “invasive non-native species”, which includes in particular species listed in Schedule 13. *Article 26* empowers the Minister for the Environment to appoint authorised officers to carry out functions under Part 4. The powers of authorised officers for the purposes of investigating whether INN species are present, or of enforcing species control orders (including powers of entry, and the circumstances under which these may be exercised) are set out in *Article 27*. Supplementary powers of inspection, seizure, recording and taking samples are conferred by *Article 28*.

*Article 29* gives an authorised officer the power to enter into an agreement (a “species control agreement”) for control of an INN species, with the owner of any premises on which the officer considers that the species is present. *Article 29(3)* sets out the provisions which must be specified in a species control agreement, and under *Article 29(4)* such an agreement may in particular include provision as to how “species control operations” (defined in *Article 29(5)*) are to be carried out. *Article 29(7)* limits the liability of an authorised officer for anything done under a species control agreement.

*Article 30* provides that if an owner of premises on which an INN species is considered to be present refuses to enter into a species control agreement or fails to comply with such an agreement and, on being given notice of the failure, fails to remedy it, the Minister for the Environment may make a “species control order” under *Article 30(3)*. *Article 31* sets out the provisions which must be contained in a species control order, including provision stating that an appeal may be made (as provided by *Article 40*) against the order within 14 days of its service. *Article 32* imposes a duty on the Minister and authorised officers to minimise the impact of species control operations and to ensure that they are proportionate.

*Article 33(1)* makes it an offence to sell, offer to sell, or possess or transport for the purpose of selling, any animal, bird or plant (including anything derived from an animal, bird or plant) of an INN species appearing in paragraph 2 of Schedule 13 (which incorporates, by reference, the “Union list” of certain species prepared by the European Union). Under *Article 33(3)* there is an exception for possession etc. under a species control agreement or species control order.

*Article 34(1)* requires the Minister for the Environment to designate and publish strategies for the conservation of biodiversity, and within a year of publishing such a strategy the Minister must further, under *Article 34(2)*, publish lists of species and habitats considered by the Minister to be of principal importance in furthering conservation of biodiversity. Within 5 years of publishing a strategy, the Minister is required by *Article 34(4)* to lay before the States a report as to the implementation of the strategy. *Article 34(5) and (6)* require a public body, on which a duty to have regard to promoting conservation of biodiversity is imposed under *Article 2(2)*, to publish a report on actions taken in pursuance of that duty, on a 5-yearly basis.

*Article 35* empowers the Minister to make Orders designating Areas of Special Protection and making further provision for protection within such Areas of specified wild animals, wild birds or wild plants, including provision restricting access and prohibiting particular acts or activities. Before making such an Order the Minister must give notice in writing of the proposed designation to owners and occupiers of land falling within the proposed Area. Such notice must invite representations to the Minister, and an Order may not be made unless the owners have consented or have failed to raise objections within 28 days from the date of the notice. Again, there is also a right of appeal under *Article 40*.

**Part 5** deals with the licensing of certain acts and activities to except them from being treated as criminal offences under the Law.

*Article 36* confers power on the Minister to grant licences only for specified purposes and if satisfied that the course of action authorised by the licence is the only satisfactory one and will not be detrimental to the survival of the wildlife population in question. *Article 36(3)(c)* provides that a licence may be granted subject to compliance with conditions specified in the licence. Under *Article 36(4)* the Minister may charge a prescribed fee in connection with the grant of a licence. A person aggrieved by the Minister's decision in relation to grant or refusal of a licence may make representations to the Minister and an appeal lies under *Article 40* against the Minister's final decision following any such representations.

*Article 37* sets out the purposes for which licences may be granted, including scientific or educational purposes, conservation, and protecting any zoological or biological collection. The list of purposes may be amended by Order.

*Article 38* provides that breach of any condition specified in a licence is an offence, and *Article 39* makes it an offence to make a false statement or representation for the purpose of obtaining a licence. Each of these offences is punishable by imprisonment for up to 12 months and a fine.

**Part 6** contains general and miscellaneous provisions for the operation of the Law.

*Article 40* provides for the types of appeals which may be made to the Royal Court.

*Article 41* enables the Minister to make arrangements for the payment of compensation where an owner of premises has suffered a certain level of financial loss as a result of a species control agreement or order, the exercise of powers of entry, or expropriation of property as a result of the designation of an Area of Special Protection.

*Article 42* confers general powers of search and entry on a police officer or authorised officer who suspects with reasonable cause that an offence under the Law is or has been committed, subject to obtaining a warrant from the Bailiff in the case where the powers are to be exercised in relation to a private dwelling. *Article 43* confers supplementary powers, where the powers under *Article 42* are exercised, relating to inspection and seizure of the premises and things found upon them. *Article 44* creates a general defence, in the case of exercise of enforcement powers, against offences under Parts 2 and 3 of the Law. *Article 45* makes it an offence, punishable by imprisonment for up to 12 months and a fine, to obstruct any officer exercising powers under *Articles 27, 28, 42 or 43*.

*Article 46* provides for separate calculation of penalties where an offence under Part 2, 3 or 4 has been committed in respect of more than one animal, bird, nest, egg, plant or other thing to which the offence relates. *Article 47* requires the court by which a person is convicted of such an offence to order the forfeiture of any such thing, and also enables the court to order forfeiture of ancillary items.

*Article 48* sets out what is to be regarded as a proper address for service under the Law.

*Article 49* confers power on the Minister to amend the Schedules, and any time periods in the Law, by Order. *Article 50* is the general Order-making power for the purposes of the Law.

*Article 51* empowers the Minister to issue guidance as to the application of provisions of the Law, and provides that a failure to comply with guidance may be taken into account by the court in any proceedings under the Law.

*Article 52* repeals the Conservation of Wildlife (Jersey) Law 2000 and the Animals (Trapping) (Jersey) Law 1961. *Article 53* provides for consequential amendment of references to those Laws in other enactments. *Article 54* gives the title by which this Law may be cited, and provides for it to come into force 7 days after registration.

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### **Re-issue Note**

This Project is re-issued to correct an error in the Explanatory Note.

On page 20, in the paragraph relating to *Article 35*, the words “within 3 months” have been corrected to “within 28 days”.





Jersey

## DRAFT WILDLIFE (JERSEY) LAW 202-

### Contents

#### Article

<b>PART 1</b>	<b>27</b>
<hr/>	
INTERPRETATION, PURPOSE AND APPLICATION	27
1 Interpretation: general.....	27
2 General purpose of this Law .....	29
3 Interpretation: "wild animal" and "wild bird".....	30
4 Interpretation: "wild plant" .....	30
5 Protections conferred by this Law .....	30
6 Application .....	31
 <b>PART 2</b>	 <b>32</b>
<hr/>	
PROTECTION OF WILD ANIMALS AND WILD BIRDS	32
7 Prohibition of killing or harming protected wild animals and protected wild birds.....	32
8 Prohibitions relating to dens and nests of protected wild animals and protected wild birds .....	32
9 Additional protection for dens and nests of certain protected wild animals	33
10 Additional protection for nests of certain protected wild birds .....	34
11 Prohibitions relating to breeding sites and resting sites of certain protected wild animals.....	34
12 Prohibitions relating to breeding sites and resting sites of certain protected wild birds .....	35
13 Prohibition of disturbance of certain protected wild animals and protected wild birds .....	36
14 Prohibition of sale of protected wild animals and protected wild birds.....	36
15 Prohibition of keeping etc. of protected wild animals and protected wild birds.....	37
16 Prohibition of certain methods of killing or taking wild animals and wild birds.....	37
17 Prohibition of use of vehicles etc. in hunting birds.....	38
18 Prohibition of possession, sale etc. of regulated devices, substances and methods .....	39
19 Prohibition of export of protected wild animals and protected wild birds ..	39
20 Prohibition of release of certain species of animals and birds .....	40

<b>PART 3</b>	<b>40</b>
<hr/>	
PROTECTION OF WILD PLANTS	40
21 Prohibition of certain acts in relation to protected wild plants .....	40
22 Prohibition of sale etc. of protected wild plants .....	41
23 Prohibition of release of invasive non-native species, and protected wild plants .....	41
24 Prohibition of export of protected wild plants .....	42
<b>PART 4</b>	<b>42</b>
<hr/>	
PROTECTION OF ENVIRONMENT AND BIODIVERSITY	42
25 Invasive non-native species .....	42
26 Appointment of authorised officers .....	42
27 Powers of authorised officers to search and enter premises, etc. ....	43
28 Supplementary powers of authorised officers .....	43
29 Species control agreements.....	44
30 Species control orders .....	45
31 Provisions to be included in species control order .....	46
32 Duty to limit impact of species control operations .....	47
33 Prohibition of possession and sale etc. of certain INNs.....	48
34 Duty to promote the conservation of biodiversity .....	48
35 Designation of Areas of Special Protection.....	49
<b>PART 5</b>	<b>50</b>
<hr/>	
LICENCES	50
36 Minister’s power to grant licences .....	50
37 Purposes for which licences may be granted .....	52
38 Offence: breach of licence conditions .....	52
39 Offence: false statements.....	52
<b>PART 6</b>	<b>53</b>
<hr/>	
GENERAL AND MISCELLANEOUS PROVISIONS	53
40 Appeals.....	53
41 Compensation .....	53
42 Enforcement: general powers .....	54
43 Enforcement: supplementary powers .....	54
44 General defence for exercise of enforcement powers .....	55
45 Offence: obstruction .....	56
46 Calculation of penalty .....	56
47 Forfeiture .....	56
48 Service of notices .....	57
49 Power to amend Schedules, etc. ....	57
50 Orders .....	58
51 Guidance .....	58
52 Repeals.....	58
53 Consequential amendment of other enactments .....	58
54 Citation and commencement .....	59



<b>SCHEDULE 1</b>	<b>60</b>
PROTECTED WILD ANIMALS	60
<b>SCHEDULE 2</b>	<b>62</b>
PROTECTED WILD BIRDS	62
<b>SCHEDULE 3</b>	<b>63</b>
PROTECTED WILD ANIMALS AND WILD BIRDS WHICH RE-USE THEIR DENS OR NESTS	63
PART 1	63
PROTECTED WILD ANIMALS	63
PART 2	63
PROTECTED WILD BIRDS	63
<b>SCHEDULE 4</b>	<b>64</b>
WILD ANIMALS WHOSE BREEDING SITES AND RESTING SITES ARE PROTECTED	64
PART 1	64
PROTECTED AT ANY TIME	64
PART 2	64
PROTECTED WHEN IN USE	64
<b>SCHEDULE 5</b>	<b>65</b>
WILD BIRDS WHOSE BREEDING SITES AND RESTING SITES ARE PROTECTED	65
PART 1	65
PROTECTED AT ANY TIME	65
PART 2	66
PROTECTED WHEN IN USE	66
<b>SCHEDULE 6</b>	<b>68</b>
WILD ANIMALS AND WILD BIRDS WHICH ARE PROTECTED FROM DISTURBANCE	68
PART 1	68
WILD BIRDS	68
PART 2	68
WILD ANIMALS	68
<b>SCHEDULE 7</b>	<b>70</b>
ANIMALS AND BIRDS TO BE RELEASED WITHIN 48 HOURS	70
PART 1	70
WILD BIRDS	70
PART 2	70

WILD ANIMALS	70
<b>SCHEDULE 8</b>	<b>71</b>
PROTECTED WILD PLANTS ETC.	71
<b>SCHEDULE 9</b>	<b>74</b>
DEVICES, SUBSTANCES AND METHODS PROHIBITED FOR KILLING OR TAKING WILD ANIMALS	74
PART 1	74
DEVICES ETC. PROHIBITED GENERALLY	74
PART 2	74
DEVICES ETC. OF WHICH USE IS PROHIBITED IN RELATION TO PARTICULAR TYPES OF WILD ANIMAL	74
<b>SCHEDULE 10</b>	<b>76</b>
DEVICES, SUBSTANCES AND METHODS PROHIBITED FOR KILLING OR TAKING WILD BIRDS	76
<b>SCHEDULE 11</b>	<b>77</b>
DEVICES AND SUBSTANCES OF WHICH POSSESSION ETC. IS PROHIBITED	77
<b>SCHEDULE 12</b>	<b>78</b>
SPECIES OF WHICH RELEASE ETC. IS PERMITTED	78
<b>SCHEDULE 13</b>	<b>79</b>
PROHIBITED INN SPECIES	79
1 Interpretation of this Schedule .....	79
2 Prohibited species .....	79
<b>ENDNOTES</b>	<b>80</b>
Table of Endnote References .....	80



Jersey

## DRAFT WILDLIFE (JERSEY) LAW 202-

A **LAW** to make provision relating to the conservation and protection of wild animals, birds and plants, and the promotion of biodiversity in Jersey, and for connected purposes

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### PART 1

#### INTERPRETATION, PURPOSE AND APPLICATION

##### 1 Interpretation: general

(1) In this Law –

“animal”, unless otherwise indicated or required by the context, includes an invertebrate animal;

“breeding site” refers to the breeding site of a species of protected wild animal listed in Schedule 4 or of a species of protected wild bird listed in Schedule 5;

“captive bred” has the meaning given by Article 3(2);

“deliberately” is to be construed in accordance with paragraph (3);

“den” includes any roost, lair or burrow or other place used by a wild animal as a place of refuge, protection or shelter;

“disturb” means do any act, or carry out any activity, which in fact does, or might reasonably be foreseen to –

(a) impair the ability of the wild animal or wild bird in question –

(i) to survive, to breed or reproduce, to rear or nurture offspring, or

- (ii) in the case of a hibernating or migratory species, to hibernate or migrate; or
  - (b) affect significantly the local distribution or abundance of a species;  
“INN species” means an invasive non-native species as further defined by Article 25;  
“licence”, unless otherwise indicated, means a licence granted by the Minister under Part 5;  
“Minister” means the Minister for the Environment;  
“plant”, unless otherwise indicated or required by the context, includes –
    - (a) any algae, fungus or lichen; and
    - (b) any material from which a plant may be propagated at any stage of its biological cycle, including bulbs, corms, rhizomes, seeds and spores;“premises” includes land;  
“prescribed” means prescribed by the Minister by Order;  
“protected wild animal” means a wild animal of a species specified in Schedule 1;  
“protected wild bird” means a wild bird of a species specified in Schedule 2;  
“protected wild plant” means a wild plant of a species specified in Schedule 8;  
“resting site” refers to the resting site of a species of protected wild animal listed in Schedule 4 or of a species of protected wild bird listed in Schedule 5;  
“species” may include a subspecies or lower taxon of animal, bird or plant;  
“species control agreement” means an agreement under Article 29;  
“species control operations” has the meaning given by Article 29(5);  
“species control order” means an order under Article 30;  
“standard penalty” means imprisonment for a term of 2 years and a fine;  
“vehicle” includes a ship, boat or other seagoing vessel;  
“wild animal” and “wild bird” have the meanings given by Article 3;  
“wild plant” has the meaning given by Article 4.
- (2) In this Law –
- (a) a reference –
    - (i) to an animal or bird of any kind includes, unless otherwise indicated or required by the context, reference to an egg, larva, pupa, or other immature stage of an animal or bird of that kind, and
    - (ii) to an egg includes, unless otherwise indicated or required by the context, reference to an egg of any oviparous species; and
  - (b) where a scientific name and a common name are given for any animal, bird or plant, the common name is included by way of

guidance only and, in the event of any dispute or proceedings, the common name is to be disregarded.

- (3) For the purposes of this Law a person acts deliberately if –
  - (a) he or she intended his or her act to have a result which in fact occurred and is prohibited by this Law;
  - (b) he or she was aware that, unless reasonable precautions were taken –
    - (i) his or her act presented a serious risk of a result prohibited by this Law occurring in relation to wild animals, wild birds or plants of the species in question, and
    - (ii) being so aware, failed to take such precautions; or
  - (c) he or she was aware that his or her act presented a serious risk of a result prohibited by this Law occurring in relation to such animals, birds or plants, whether or not reasonable precautions were taken, and in this paragraph “reasonable precautions” means steps that were reasonable, in the circumstances known to the person, for the person to take to reduce the risk of his or her actions giving rise to a result prohibited by this Law.
- (4) In this Law, a reference to advertisement or publication includes reference to advertisement or publication by means of the internet or other electronic means.

## 2 General purpose of this Law

- (1) The purpose of this Law is the conservation of wildlife in particular, and the promotion of the conservation of biodiversity generally, in Jersey.
- (2) For the purpose set out in paragraph (1), every public body, in exercising a function conferred by an enactment, must have regard to promoting the conservation of biodiversity, so far as is consistent with the proper exercise of the function.
- (3) In complying with the duty imposed by paragraph (1), a public body must have regard to –
  - (a) any strategy designated by the Minister under Article 34;
  - (b) any guidance issued by the Minister under Article 51; and
  - (c) the United Nations Convention on Biological Diversity of 5 June 1992 as amended from time to time (or any United Nations Convention replacing that Convention).
- (4) In this Article –

“conservation of biodiversity” includes, without limitation to the generality of that expression –

  - (a) in relation to any species of animal, bird or plant, restoring or enhancing a population of that species; and
  - (b) in relation to any habitat of such a species, restoring or enhancing that habitat;

“public body” means any person, certain of whose functions are functions of a public nature.

### **3 Interpretation: "wild animal" and "wild bird"**

- (1) A wild animal or wild bird for the purposes of this Law is an animal or bird, as the case may be, which is not captive bred and which –
  - (a) is of a species naturally occurring in the wild in Jersey; or
  - (b) is, or before being killed or taken was, living wild in Jersey, or both.
- (2) Subject to paragraph (3), an animal or bird is captive bred if it is bred –
  - (a) in captivity, using animals or birds which are themselves lawfully in captivity; or
  - (b) using gametes which are lawfully obtained and kept.
- (3) Where a captive bred animal or bird which fulfils the description in paragraph (2) is living wild in Jersey as a result of being lawfully released from captivity, the animal or bird (and any of its offspring living wild) is to be regarded as a wild animal or wild bird for the purposes of this Law.
- (4) In paragraph (3), an animal or bird is "lawfully released" if it is –
  - (a) released under and in accordance with a licence, and in particular for the purpose of re-population or re-introduction into Jersey of animals or birds of that species; or
  - (b) an animal or bird of a species listed in Schedule 12.
- (5) An animal or bird of any species listed in a Schedule to this Law and found to be in the possession of any person is presumed, for the purposes of this Law, to be a wild animal or wild bird, unless the person proves that the animal or bird –
  - (a) is lawfully in that person's possession; and
  - (b) is captive bred.

### **4 Interpretation: "wild plant"**

- (1) A wild plant for the purposes of this Law is a plant which is not a cultivated plant, and which –
  - (a) is of a species naturally occurring in the wild in Jersey; or
  - (b) is growing, or before the occurrence of any act which constitutes an offence under this Law relating to a wild plant was growing, or has at any time grown, wild in Jersey, or both.
- (2) A plant is cultivated if it is not derived from the wild in Jersey nor propagated, whether in or outside Jersey, from plant parts derived from the wild in Jersey.
- (3) In proceedings for an offence under this Law relating to a wild plant, the plant in question is presumed to be a wild plant unless the contrary is shown.

### **5 Protections conferred by this Law**

- (1) The Schedules to this Law have effect to specify, respectively –

- (a) in Schedule 1, species of wild animals which are protected;
  - (b) in Schedule 2, species of wild birds which are protected;
  - (c) in Schedule 3, species of wild animals and wild birds whose dens and nests are additionally protected;
  - (d) in Schedule 4, species of wild animals whose breeding sites and resting sites are protected;
  - (e) in Schedule 5, species of wild birds whose breeding sites and resting sites are protected;
  - (f) in Schedule 6, species of wild animals and birds which are protected from disturbance;
  - (g) in Schedule 7, species of wild animals and wild birds which must not be kept in captivity for longer than 48 hours;
  - (h) in Schedule 8, species of wild plants which are protected wild plants;
  - (i) in Schedule 9, prohibited devices, substances and methods of killing, injuring or taking wild animals;
  - (j) in Schedule 10, prohibited devices, substances and methods of killing, injuring or taking wild birds;
  - (k) in Schedule 11, prohibited things capable of being used to kill, injure or take wild animals or wild birds;
  - (l) in Schedule 12, species of wild animals and wild birds which are permitted to be introduced into the wild;
  - (m) in Schedule 13, certain prohibited INN species.
- (2) Where a species of animal, bird or plant is listed in a Schedule, that species, including individual specimens of that species, enjoys the level of protection conferred by such listing either to an unqualified extent or to such extent as may be further specified in relation to the listing of that species in that Schedule.
  - (3) Without prejudice to the Minister's general power under Article 49 to amend any Schedule, the Minister may by Order further prescribe animals, birds or plants which are protected in any of the ways for which this Law provides, and such an Order may, for this purpose, amend this Article.
  - (4) A provision of an Order made under paragraph (3) may be expressed to have effect either generally or in relation to particular provisions of this Law, particular areas of Jersey or particular times of year.

## **6 Application**

- (1) This Law extends to the territorial sea adjacent to Jersey.
- (2) This Law applies on and in relation to Crown land in Jersey but nothing in it renders the Crown liable to prosecution for an offence under this Law.
- (3) Except to such extent as may be expressly provided, nothing in this Law is to be taken as derogating from rights over land enjoyed by an owner of the land under customary law or under an enactment.

## PART 2

### PROTECTION OF WILD ANIMALS AND WILD BIRDS

#### **7 Prohibition of killing or harming protected wild animals and protected wild birds**

- (1) It is an offence for a person –
  - (a) deliberately or recklessly to kill, injure or take a protected wild animal or protected wild bird; or
  - (b) deliberately to cause or permit another person to kill, injure or take a protected wild animal or protected wild bird,unless the case is one described in paragraphs (2), (3) or (5).
- (2) A person does not commit an offence under paragraph (1) if the killing, injury or taking in question is carried out under and in accordance with a licence, or under this Law, the Animal Health (Jersey) Law 2016<sup>1</sup> or the Animal Welfare (Jersey) Law 2004<sup>2</sup>.
- (3) No offence is committed under paragraph (1) if –
  - (a) a person takes a protected wild animal or protected wild bird which is disabled or injured, for the purpose of tending that animal or bird and releasing it upon its recovery; and
  - (b) the conditions in paragraph (4) are fulfilled.
- (4) The conditions mentioned in paragraph (3) are that –
  - (a) the animal or bird was not disabled or injured by the person's unlawful act; and
  - (b) the person releases the animal or bird before the end of the period –
    - (i) of 28 days, in the case of a protected wild animal or a protected wild bird, or
    - (ii) of 48 hours, in the case of a protected wild animal or a protected wild bird of a species listed in Schedule 7,beginning with the date on which the animal or bird was taken.
- (5) No offence is committed under paragraph (1) if a person humanely kills a protected wild animal or protected wild bird which is disabled, provided that –
  - (a) the animal or bird was not disabled by the person's unlawful act; and
  - (b) there was no reasonable prospect that the animal or bird would recover.
- (6) A person guilty of an offence under paragraph (1) is liable to the standard penalty.

#### **8 Prohibitions relating to dens and nests of protected wild animals and protected wild birds**

- (1) It is an offence for a person deliberately or recklessly to –



- (a) take, damage or destroy the den of a protected wild animal while the den is in use;
  - (b) take, damage or destroy the nest of a protected wild bird while the nest is in use or being built;
  - (c) obstruct access to the den of a protected wild animal, or to the nest of a protected wild bird, while that den or nest is in use;
  - (d) disturb a protected wild animal occupying a den or a protected wild bird occupying a nest; or
  - (e) do any act, or carry out any activity, in relation to the den of a protected wild animal or the nest of a protected wild bird, which has the effect of causing the deterioration of that den or nest.
- (2) It is an offence for a person deliberately to –
  - (a) take from a den or nest; or
  - (b) disturb, in a den or nest,  
the eggs or dependent offspring of a protected wild animal or protected wild bird, at any time.
- (3) The prohibitions in paragraphs (1) and (2) do not apply to anything done within the living area of a dwelling-house, except in relation to a bat of a species listed in Part 1 of Schedule 3.
- (4) For the purposes of this Article, a den or nest may be in use even though, at the time of an act described in that paragraph, it is unoccupied, and in particular a den or nest is in use if –
  - (a) the den or nest contains eggs or offspring of a parent animal or bird; or
  - (b) although the den or nest of a protected wild animal or protected wild bird does not contain eggs or offspring, such offspring remain dependent on the den or nest.
- (5) A person does not commit an offence under this Article if the person acts under and in accordance with a licence.
- (6) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and a fine.

## **9 Additional protection for dens and nests of certain protected wild animals**

- (1) It is an offence for a person, at any time, deliberately or recklessly to do an act or carry out any activity prohibited by Article 8(1) or (2), on or in relation to the den or nest of a protected wild animal of a species listed in Part 1 of Schedule 3.
- (2) For the purposes of paragraph (1), the provisions in Article 8(1)(a), (c) and (d) apply as though unqualified by a requirement for a den or nest to be in use or being built, unless there is evidence that the den or nest is not regularly used or is not likely to be used in future.
- (3) A person does not commit an offence under this Article if the person acts under and in accordance with a licence.
- (4) A person guilty of an offence under this Article is liable to the standard penalty.

## **10 Additional protection for nests of certain protected wild birds**

- (1) It is an offence for a person, at any time, deliberately or recklessly to do an act or carry out any activity prohibited by Article 8, on or in relation to the nest of a protected wild bird of a species listed in Part 2 of Schedule 3.
- (2) For the purposes of paragraph (1) the provisions in Article 8(1)(b), (c) and (d) apply as though unqualified by a requirement for a nest to be in use or being built, unless there is evidence that the nest is not regularly used or is not likely to be used in future.
- (3) A person does not commit an offence under this Article if the person acts under and in accordance with a licence.
- (4) A person guilty of an offence under this Article is liable to the standard penalty.

## **11 Prohibitions relating to breeding sites and resting sites of certain protected wild animals**

- (1) It is an offence for a person deliberately or recklessly to –
  - (a) take from a breeding site; or
  - (b) disturb, in a breeding or resting site,the eggs or dependent offspring of an animal of a species listed in Part 1 of Schedule 4, at any time.
- (2) It is an offence for a person deliberately or recklessly to –
  - (a) take from a breeding site; or
  - (b) disturb, in a breeding or resting site,the eggs or dependent offspring of an animal of a species listed in Part 2 of Schedule 4, while that site is in use or is being built.
- (3) It is an offence for a person deliberately or recklessly to –
  - (a) take, damage or destroy any part of the breeding site of an animal of a species listed in Part 1 of Schedule 4; or
  - (b) obstruct access by such an animal to its breeding site or resting site,at any time.
- (4) It is an offence for a person deliberately or recklessly to –
  - (a) take, damage or destroy any part of the breeding site of an animal of a species listed in Part 2 of Schedule 4; or
  - (b) obstruct access by such an animal to its breeding site or resting site,while that site is in use or is being built.
- (5) For the purposes of paragraphs (2) and (4) a site is “in use” if an animal is occupying the site, or if –
  - (a) the site contains dependent offspring of the animal; or
  - (b) although the site does not contain offspring, offspring of the animal remain dependent on the site as a resting site,

regardless of whether, at the time of any act described in paragraph (2), the animal is at the site.

- (6) It is an offence for a person, at any time, deliberately or recklessly to do any act, or carry out any activity, which has the effect of causing deterioration of a breeding site or resting site of an animal of a species in relation to which this Article applies.
- (7) A person does not commit an offence under this Article if –
  - (a) the person acts under and in accordance with a licence; or
  - (b) the person is authorised or directed, under any enactment other than this Law, to destroy or to disturb a protected wild animal or protected wild bird.
- (8) A person guilty of an offence under this Article is liable to the standard penalty.

## **12 Prohibitions relating to breeding sites and resting sites of certain protected wild birds**

- (1) It is an offence for a person deliberately to –
  - (a) take from a breeding site; or
  - (b) disturb, in a breeding or resting site,  
the eggs or dependent offspring of a bird of a species listed in Part 1 of Schedule 5, at any time.
- (2) It is an offence for a person deliberately or recklessly to –
  - (a) take from a breeding site; or
  - (b) disturb, in a breeding or resting site,  
the eggs or dependent offspring of a bird of a species listed in Part 2 of Schedule 5, while that site is in use or is being built.
- (3) It is an offence for a person deliberately or recklessly to –
  - (a) take, damage or destroy any part of the breeding site of a bird of a species listed in Part 1 of Schedule 5; or
  - (b) obstruct access by such a bird to its breeding site or resting site,  
at any time.
- (4) It is an offence for a person deliberately to –
  - (a) take, damage or destroy any part of the breeding site of a bird of a species listed in Part 2 of Schedule 5; or
  - (b) obstruct access by such a bird to its breeding site,  
while a nest on that site is in use or is being built.
- (5) For the purposes of paragraphs (2) and (4) a nest is “in use” if a bird is incubating eggs in the nest, or if –
  - (a) the nest contains eggs or offspring of a bird; or
  - (b) although the nest does not contain offspring, offspring of a bird remain dependent on the nest as a resting site,  
regardless of whether, at the time of any act described in that paragraph, the bird is in the nest.

- (6) It is an offence for a person, at any time, deliberately to do an act, or carry out any activity, which has the effect of causing deterioration of a breeding site or resting site of a bird of a species in relation to which this Article applies.
- (7) A person does not commit an offence under this Article if the person acts under and in accordance with a licence.
- (8) A person guilty of an offence under this Article is liable to the standard penalty.

### **13 Prohibition of disturbance of certain protected wild animals and protected wild birds**

- (1) It is an offence for a person, at any time, deliberately to disturb a protected wild animal or protected wild bird of a species listed in Schedule 6.
- (2) A person does not commit an offence under paragraph (1) if the person acts under and in accordance with a licence.
- (3) A person guilty of an offence under this Article is liable to the standard penalty.

### **14 Prohibition of sale of protected wild animals and protected wild birds**

- (1) It is an offence for a person –
  - (a) to have in his or her possession;
  - (b) to sell, offer or expose for sale; or
  - (c) to have in his or her possession, or to transport, for the purposes of sale, or of offer or exposure for sale,  
any protected wild animal or protected wild bird, whether alive or dead, or any part of or anything derived from such an animal or bird, including the eggshell of such an animal or bird.
- (2) It is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such thing of which the sale is prohibited under paragraph (1).
- (3) A person does not commit an offence under paragraph (1) –
  - (a) if the person acts under and in accordance with a licence; or
  - (b) where an act which would otherwise constitute an offence under that paragraph relates to a dead protected wild animal or dead protected wild bird or any part of or anything derived from such an animal or bird, including a blown egg, which –
    - (i) is shown to have been killed otherwise than in contravention of this Law, or
    - (ii) was lawfully imported.
- (4) A person guilty of an offence under this Article is liable to the standard penalty.

## **15 Prohibition of keeping etc. of protected wild animals and protected wild birds**

- (1) It is an offence for a person to keep, or to have in his or her control or possession –
  - (a) a protected wild animal; or
  - (b) a protected wild bird, whether alive or dead, or the blown egg of such a bird.
- (2) A person does not commit an offence under paragraph (1) –
  - (a) if the person acts under and in accordance with a licence;
  - (b) where an act which would otherwise constitute an offence under that paragraph relates to a dead protected wild animal or dead protected wild bird or any part of or anything derived from such an animal or bird which –
    - (i) is shown to have been killed otherwise than in contravention of this Law, or
    - (ii) was lawfully imported; or
  - (c) if the person acts in accordance with, and in the circumstances described in, paragraph (3) or (4).
- (3) No offence is committed under paragraph (1) if a person keeps a wild animal or wild bird which is disabled or injured, for the purpose of tending that animal or bird and releasing it upon its recovery, provided that –
  - (a) the animal or bird was not disabled or injured by the person's unlawful act; and
  - (b) the person releases the animal or bird before the end of the period –
    - (i) in the case of an animal or bird listed in Schedule 7, of 48 hours, or
    - (ii) in any other case, of 28 days,beginning with the date on which the animal or bird was taken into captivity.
- (4) No offence is committed under paragraph (1) if a person humanely kills, or transports for the purpose of humanely killing, a protected wild animal or protected wild bird which is disabled, provided that –
  - (a) the animal or bird was not disabled by the person's unlawful act; and
  - (b) there was no reasonable prospect that the animal or bird would recover.
- (5) A person guilty of an offence under this Article is liable to the standard penalty.

## **16 Prohibition of certain methods of killing or taking wild animals and wild birds**

- (1) It is an offence for a person to use any device, substance or method specified in Part 1 of Schedule 9 for or in connection with the killing, injuring or capture of a wild animal.

- (2) It is an offence for a person to use any device, substance or method to which paragraph (3) applies, for or in connection with the killing, injuring or capture of one or more wild animals or wild birds of a species in relation to which that paragraph is specified to apply.
- (3) This paragraph applies to a device, substance or method specified –
  - (a) in relation to a protected wild animal of a species listed in the first column of the table in Part 2 of Schedule 9, in the second column of the table;
  - (b) in relation to a protected wild bird, in Schedule 10.
- (4) It is an offence for a person deliberately to use, for or in connection with the killing, injuring or capture of a wild animal or wild bird, a device, substance or method other than one to which paragraph (3) applies, if that device, substance or method –
  - (a) is capable of having a significant effect on the distribution or abundance of, or of causing serious disturbance to, the local population of a protected wild animal or protected wild bird in the area in which the device, substance or method is used; or
  - (b) is of a kind that cannot be directed at a specific animal, bird or species of animal or bird, or is used in such a way that it cannot be so directed.
- (5) No offence is committed under paragraph (1), (2) or (4) if the act in question is done under and in accordance with a licence.
- (6) Paragraphs (1) and (2) do not apply to the use of a device, substance or method for or in connection with capture of wild animals or wild birds for the purposes of education or of conservation of wildlife or of the environment, where the capture is carried out to such extent and using such devices, substances or methods as may be specified by the Minister in guidance.
- (7) In this Article reference to a “device” includes any part of a device and to a device whether or not it is assembled.
- (8) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and to a fine.

## **17 Prohibition of use of vehicles etc. in hunting birds**

- (1) Without prejudice to Articles 16 and 18, it is an offence for a person to use –
  - (a) a motor vehicle;
  - (b) a mechanically propelled boat or other vessel; or
  - (c) an aircraft,for the purpose of hunting any protected wild bird.
- (2) In paragraph (1)(a), “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.
- (3) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and to a fine.

## **18 Prohibition of possession, sale etc. of regulated devices, substances and methods**

- (1) It is an offence for a person to have in his or her possession, for the purpose of committing an offence under this Part, anything capable of being used for committing that offence.
- (2) A person guilty of an offence under paragraph (1) is liable to the same punishment as if the person had committed the primary offence in question.
- (3) It is an offence for a person to –
  - (a) sell, hire or exchange;
  - (b) give away;
  - (c) offer or expose for sale; or
  - (d) be in possession of, or transport, for the purpose of sale, hire or exchange or of offer or exposure for sale, hire or exchange, anything listed in Schedule 11.
- (4) It is an offence for a person to sell, or to expose or offer for sale, for the purpose of killing, injuring or capture of a wild animal or (as the case may be) wild bird, a device or substance which –
  - (a) is capable of having a significant effect on the distribution or abundance of, or of causing serious disturbance to, the population of a protected wild animal or protected wild bird in the area in which the device, substance or method is used; or
  - (b) is of a kind that cannot be directed at a specific animal, bird or species of animal or bird, or is used in such a way that it cannot be so directed.
- (5) It is an offence for a person to publish any advertisement likely to be understood as conveying that the person sells or buys, or intends to sell or buy, devices or substances listed in Schedule 9 or Schedule 10 for the purpose of killing, injuring or capture of a wild animal or (as the case may be) wild bird.
- (6) A person does not commit an offence under paragraph (1), (3), or (4) if the person acts under and in accordance with a licence.
- (7) A person guilty of an offence under paragraph (3), (4) or (5) is liable to imprisonment for a term of 12 months and a fine.

## **19 Prohibition of export of protected wild animals and protected wild birds**

- (1) It is an offence for a person to export from Jersey any protected wild animal or protected wild bird, whether alive or dead, or any part of such an animal or bird.
- (2) A person does not commit an offence under paragraph (1) if the person acts under and in accordance with a licence.
- (3) A person guilty of an offence under paragraph (1) is liable to the standard penalty.

**20 Prohibition of release of certain species of animals and birds**

- (1) It is an offence for a person –
  - (a) deliberately to release; or
  - (b) recklessly to allow to escape,  
into the wild, any animal or bird of an INN species.
- (2) It is an offence for a person –
  - (a) deliberately to release; or
  - (b) recklessly to allow to escape,  
permanently into the wild, any animal or bird of a species other than a species specified in Schedule 12.
- (3) It is an offence for a person knowingly to cause or permit another person to do an act mentioned in paragraph (1) or (2).
- (4) A person does not commit an offence under paragraph (1) or (2) if the person acts under and in accordance with a licence.
- (5) A person does not commit an offence under paragraph (1) or (2) if the person releases or allows to escape –
  - (a) an animal or bird inadvertently captured as a result of a lawful act or in the course of a lawful activity carried out by the person; or
  - (b) before the end of the period specified in Article 7(4) or 15(3), an animal or bird taken into or kept in captivity under either of those provisions.
- (6) For the purposes of paragraphs (2) and (3) “permanently” means that the animal or bird in question is released or allowed to escape, or caused or permitted to be released or allowed to escape –
  - (a) with the intention of allowing the animal or bird to establish itself in the wild; and
  - (b) with no intention of retrieving the animal or bird into captivity.
- (7) A person guilty of an offence –
  - (a) under paragraph (1), is liable to the standard penalty;
  - (b) under paragraph (2), is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.

**PART 3****PROTECTION OF WILD PLANTS****21 Prohibition of certain acts in relation to protected wild plants**

- (1) It is an offence for a person deliberately or recklessly to –
  - (a) cut, pick or otherwise gather the whole, or any substantial part of, a protected wild plant;
  - (b) uproot a protected wild plant;
  - (c) collect the propagule or spore of a protected wild plant;



- (d) do any other thing which has the effect of causing the destruction of a protected wild plant; or
  - (e) disturb a protected wild plant or the habitat of a protected wild plant.
- (2) It is an offence for a person to have in his or her possession a protected wild plant or any part, propagule or spore of a protected wild plant.
  - (3) A person does not commit an offence under paragraph (1) or (2) if the person acts under and in accordance with a licence.
  - (4) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.
  - (5) For the purposes of this Article –
    - “propagule” means such part of a plant as is capable of reproducing, and includes a bulb, corm or seed;
    - to “uproot” means to dig up or otherwise remove a plant or any substantial part of it, including its roots, from the place in which it is growing.

## **22 Prohibition of sale etc. of protected wild plants**

- (1) It is an offence for a person –
  - (a) to sell, hire or exchange;
  - (b) to offer or expose for sale, hire or exchange; or
  - (c) to transport, for the purposes of sale, hire or exchange or of offer or exposure for sale, hire or exchange,any protected wild plant, or any part of or anything derived from a protected wild plant.
- (2) It is an offence for a person to publish any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any protected wild plant, or any part of or anything derived from a protected wild plant.
- (3) A person does not commit an offence under paragraph (1) if the person acts under the authority of, and in accordance with, a licence.
- (4) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.

## **23 Prohibition of release of invasive non-native species, and protected wild plants**

- (1) It is an offence for a person –
  - (a) deliberately to plant in the wild; or
  - (b) knowingly to cause or permit another person to plant in the wild, any plant of an INN species.
- (2) It is an offence for a person –
  - (a) deliberately to plant in the wild; or
  - (b) recklessly to release into the wild,

any protected wild plant.

- (3) A person does not commit an offence under paragraph (1) or (2) if the person acts under and in accordance with a licence.
- (4) A person guilty of an offence under this Article is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.

## **24 Prohibition of export of protected wild plants**

- (1) It is an offence for a person to export from Jersey any protected wild plant, whether alive or dead.
- (2) A person does not commit an offence under paragraph (1) if the person acts under and in accordance with a licence.
- (3) A person guilty of an offence under paragraph (1) is liable to the standard penalty.

## **PART 4**

### PROTECTION OF ENVIRONMENT AND BIODIVERSITY

## **25 Invasive non-native species**

- (1) For the purposes of this Law, any species of animal, bird or plant, alive or dead, is –
  - (a) “invasive”, if uncontrolled, it would be likely to have a significant adverse impact on –
    - (i) the biodiversity of Jersey, or
    - (ii) other environmental, social or economic interests of Jersey; and
  - (b) “non-native” if it is a species which does not –
    - (i) naturally occur in the wild in Jersey, nor
    - (ii) in the case of a species of animal or bird, regularly visit Jersey, at any point in the life cycle of that species, in a wild state,and a species which is both invasive and non-native is referred to as an “INN species”.
- (2) Without prejudice to the generality of paragraph (1), a species specified, or otherwise incorporated, in paragraph 2 of Schedule 13 is treated for the purposes of this Law as an “INN species” whether or not, at the time when an offence under this Law is committed, the species or its habitat extends to Jersey.

## **26 Appointment of authorised officers**

- (1) The Minister may appoint persons to carry out the functions of authorised officers under this Part.

- (2) An appointment under paragraph (1) may be made subject to such terms and conditions as the Minister considers appropriate.

## **27 Powers of authorised officers to search and enter premises, etc.**

- (1) An authorised officer may exercise the powers conferred by this Article and Article 28 for the purposes of –
  - (a) investigating whether an INN species is present on any premises or in any vehicle, where the officer reasonably suspects that such a species is so present; or
  - (b) enforcing a species control order.
- (2) For the purposes mentioned in paragraph (1), an authorised officer may, at any reasonable hour –
  - (a) enter and search any premises, other than premises used wholly or mainly as a private dwelling;
  - (b) stop, enter and search any vehicle; and
  - (c) seize and detain any property found within the premises or vehicle.
- (3) The Bailiff or a Jurat, if satisfied on sworn information that –
  - (a) there are reasonable grounds for entry into any premises for a purpose mentioned in paragraph (1); and
  - (b) either –
    - (i) the premises are used wholly or mainly as a private dwelling, or
    - (ii) any of the circumstances in paragraph (4) applies,may grant a warrant authorising an inspector, together with a police officer, to enter the premises and to use such force as is reasonably necessary to do so.
- (4) The circumstances mentioned in paragraph (3)(b)(ii) are that –
  - (a) admission has been refused, or a refusal is expected, and (in either case) notice of the application for a warrant has been given to the occupier;
  - (b) asking for admission, or the giving of notice of an application for a warrant, would defeat the object of the entry; or
  - (c) the case is one of urgency and the premises are unoccupied or the occupier is absent.
- (5) A warrant granted under this Article is valid for one month.
- (6) An authorised officer who exercises power to enter premises which are unoccupied or whose occupier is absent must (so far as reasonably practicable) leave the premises secured as effectively as he or she found them.

## **28 Supplementary powers of authorised officers**

- (1) An authorised officer entering any premises or vehicle under Article 27 may further, for the purposes mentioned in Article 27(1), do all such things and take all such steps as are reasonably necessary including the

actions listed in paragraph (2) and the exercise of the powers conferred by paragraph (3).

- (2) The actions mentioned in paragraph (1) are –
  - (a) inspecting, examining and seizing anything on or in the premises or vehicle, including live animals and live birds, and documents and computer records;
  - (b) transcribing, copying and detaining any documents and records;
  - (c) recording, measuring or photographing anything on or in the premises or vehicle;
  - (d) detaining, isolating or requiring the movement of any animal, bird, plant or inanimate thing;
  - (e) taking samples from any animal, bird or plant or of any other thing;
  - (f) undertaking such cleansing and disinfection, disinfestation, treatment, removal or destruction, including by fire, of any bird, animal or thing as is considered appropriate in the circumstances.
- (3) An authorised officer may, by notice served on a person who is the occupier of premises or owner of any vehicle, require that person –
  - (a) to undertake any action (including any such action as might amount to species control operations); and
  - (b) to take such reasonable steps as the officer may specify to collect or restrain any animal or bird of which the person has charge.
- (4) An authorised officer exercising powers under this Article or Article 27 may, as he or she considers necessary –
  - (a) be accompanied by such other persons; and
  - (b) take with him or her onto any premises such equipment (including vehicles).
- (5) Where an authorised officer seizes or detains any property under this Article or Article 27, the officer must give, to any person who appears to the officer to be the person owning or otherwise having possession or control of that property, a receipt for the property in writing and stating the date on which, and the powers under which, it has been so seized or detained.
- (6) An authorised officer is not personally liable for anything that he or she does when acting in the execution or purported execution of powers under this Part, but nothing in this paragraph is to be taken to exclude liability of a public authority under Article 7(1) of the Human Rights (Jersey) Law 2000<sup>3</sup>.

## 29 Species control agreements

- (1) Where an authorised officer considers that an animal, bird or plant of an INN species, or of any other species of non-domesticated animal or bird not naturally occurring in Jersey, is present on any premises, the officer may, subject to paragraph (2), enter into an agreement for control of that species (a “species control agreement”) with the owner of the premises.
- (2) Before entering into a species control agreement the officer must be satisfied –

- (a) that the provisions of the agreement are proportionate to the objective to be achieved; and
  - (b) in a case where there is more than one owner, that the person who is party to the agreement is the most appropriate person.
- (3) A species control agreement must specify –
  - (a) the species, and the premises, to which the agreement relates;
  - (b) the operations (“species control operations”, as further defined by paragraph (5)) which are to be carried out under the agreement; and
  - (c) the party by whom, and (if appropriate) the time by which, the species control operations are to be carried out.
- (4) A species control agreement may contain such supplementary provision as the parties consider appropriate, which may include (but need not be limited to) provision as to –
  - (a) how species control operations are to be carried out;
  - (b) payment to be made by one party to the other, or to another person, in respect of such operations; and
  - (c) any species control operations which must not be carried out.
- (5) “Species control operations” means operations to do one or more of the following things, namely –
  - (a) eradicating a species from premises;
  - (b) controlling a species on premises;
  - (c) preventing the return of a species to premises.
- (6) Where the authorised officer considers that an owner of premises has complied with all the requirements of a species control agreement to which that owner is a party, the officer must give the owner notice to such effect.
- (7) An authorised officer is not liable to a person with an interest in the premises, other than the owner who is a party to a species control agreement, for anything done by the officer under the agreement, but nothing in this paragraph is to be taken to exclude liability of a public authority under Article 7(1) of the Human Rights (Jersey) Law 2000<sup>4</sup>.
- (8) An owner of premises is not liable to any other person for doing anything by way of species control operations under a species control agreement.

### **30 Species control orders**

- (1) This Article applies where –
  - (a) an authorised officer considers that an animal, bird or plant of an INN species, or any other species of non-domesticated animal or bird not naturally occurring in Jersey, is present on any premises; and
  - (b) any of the circumstances listed in paragraph (2) apply.
- (2) The circumstances mentioned in paragraph (1) are that –
  - (a) the Minister considers that an owner of the premises –

- (i) has failed to comply in whole or in part with a species control agreement, and
    - (ii) having been given notice of the failure and a reasonable opportunity to remedy it, has not remedied the failure;
  - (b) an authorised officer has offered to enter into a species control agreement with an owner of the premises, but either –
    - (i) the owner has refused to enter into any such agreement, or
    - (ii) by the end of the period of 42 days beginning with the day following the day on which the offer was made, no such agreement has been entered into and the officer considers it unlikely that the owner will enter into any such agreement;
  - (c) the Minister considers that the making of a species control order is urgently necessary; or
  - (d) the Minister is satisfied that, although –
    - (i) an authorised officer placed on the premises, in a conspicuous position, a notice requesting the owner to enter into a species control agreement, and
    - (ii) a period of at least 5 days has elapsed since the notice was so placed,no owner of the premises has been or can reasonably be identified.
- (3) Where this Article applies, and subject to paragraph (4), the Minister may make an Order (a “species control order”) in accordance with Article 31.
- (4) In making a species control order the Minister must be satisfied that the provisions of the draft Order are proportionate to the objective to be achieved.
- (5) The Minister or an authorised officer is not liable to a person with an interest in the premises, other than the owner who is a party to a species control agreement, for anything done by the officer under a species control order, but nothing in this paragraph is to be taken to exclude liability of a public authority under Article 7(1) of the Human Rights (Jersey) Law 2000<sup>5</sup>.
- (6) An owner of premises is not liable to any other person for doing anything by way of species control operations under a species control order.

### **31 Provisions to be included in species control order**

- (1) Every species control order must contain provision specifying –
  - (a) the species to which the order relates;
  - (b) the species control operations which are required by the order to be carried out;
  - (c) the grounds on which the order is made, being such circumstances as are set out in Article 30(2) and are relevant in the particular case;
  - (d) the person by whom the species control operations are to be carried out, being –

- (i) in the case of an order made on the grounds set out in Article 30(2)(a), (b), or (c), either such an owner as is specified in the order or the Minister, or both, or
  - (ii) in the case of an order made on the grounds set out in Article 30(2)(d), the Minister; and
- (e) subject to paragraphs (2) and (3), the date by which the species control operations must be carried out or (as the case may be) by which the species control operations are proposed to be carried out by the Minister.
- (2) A species control order made on the grounds set out in Article 30(2)(a), (b) or (d) may not require an owner of premises to carry out species control operations, nor provide for the Minister to do so, before the expiry of the period (further described in paragraph (3)) within which an appeal against the order may be made.
- (3) Except in the case of an order made on the grounds set out in Article 30(2)(c), a species control order must also contain provision stating that –
  - (a) an appeal may be made against the order within the period of 14 days beginning with the date of service of the order; and
  - (b) if an appeal under Article 40 is made within that period, no species control operations are to be carried out before the appeal is withdrawn, or finally determined.
- (4) If appropriate, a species control order may contain a map or plan of the premises to which it relates.
- (5) A species control order may also contain provision as to either or both of the following kinds of payment –
  - (a) payment to be made by the Minister to –
    - (i) an owner, in respect of the reasonable costs of species control operations to be carried out by the owner, or
    - (ii) another person, in respect of the reasonable costs of such operations to be carried out by an owner; and
  - (b) payment to be made by an owner in respect of the reasonable costs of species control operations to be carried out by the Minister.

## **32 Duty to limit impact of species control operations**

In carrying out species control operations, or requiring such operations to be carried out, the Minister and (except where Article 30(2)(c) applies) an authorised officer must ensure that –

- (a) the operations, and any impact of the operations on the immediate environment in which they are to be carried out or on the wider environment of Jersey, are proportionate to the objective to be achieved; and
- (b) the operations are carried out –
  - (i) using all necessary measures to spare avoidable pain, distress and suffering of animals as a result of or during the operations, and

- (ii) taking into account as far as possible best practices in animal welfare.

### **33 Prohibition of possession and sale etc. of certain INNs**

- (1) It is an offence for a person –
  - (a) to have in his or her possession or control, except for the purposes of removal or destruction under and in accordance with a licence;
  - (b) to sell, hire or exchange;
  - (c) to offer or expose for sale, hire or exchange; or
  - (d) to have in his or her possession, or to transport, for the purposes of sale, hire or exchange, or of offer or exposure for sale, hire or exchange,  
any animal, bird or plant of an INN species specified, or otherwise incorporated, in paragraph 2 of Schedule 13.
- (2) A person guilty of an offence under this Article is liable to the standard penalty.
- (3) A person does not commit an offence under paragraph (1) if the person acts under and in accordance with –
  - (a) a licence; or
  - (b) a species control agreement or species control order.

### **34 Duty to promote the conservation of biodiversity**

- (1) The Minister must –
  - (a) designate; and
  - (b) publish, in such manner as the Minister may see fit,  
one or more strategies for the conservation of biodiversity in Jersey.
- (2) Within the period of one year beginning with the date of designation of a strategy under paragraph (1), the Minister must further –
  - (a) publish, in the same manner as that adopted for publication under paragraph (1)(b), lists of –
    - (i) species of animals, birds and plants, and
    - (ii) habitats,  
considered by the Minister to be of principal importance for the furtherance of the conservation of biodiversity; and
  - (b) issue and publish guidance for the assistance of public bodies in complying with the duty imposed by Article 2(2).
- (3) The Minister may at any time review and, if the Minister considers it necessary to do so, amend the guidance issued under paragraph (2)(b).
- (4) Within the period of 5 years beginning with either –
  - (a) the date on which a strategy is designated under paragraph (1)(a);  
or
  - (b) the date on which a report was last laid under this paragraph,



the Minister must lay a report before the States as to the implementation of the strategy.

- (5) Within the period of 5 years beginning with either –
  - (a) the base date; or
  - (b) the date on which a report was last published under this paragraph, a public body must publish a report on the actions taken by the body, in pursuance of the duty imposed upon it by Article 2(2), during the period to which the report relates.
- (6) A report for the purposes of paragraph (5) may be published in such form and manner as the public body thinks fit, including by incorporation within another report published by the body, and in paragraph (5)(a) the “base date” means –
  - (a) the date on which this Law comes into force; or
  - (b) if later, the date on which the body is established.
- (7) In this Article “public body” and “conservation of biodiversity” have the same meanings as given by Article 2(4).

### **35 Designation of Areas of Special Protection**

- (1) Subject to paragraphs (2) to (5), the Minister may by Order make provision designating, as an Area of Special Protection, such an area as must be specified in the Order and such as may reasonably be necessary for the protection within that area of such wild animals, wild birds or wild plants as must also be specified, including provision –
  - (a) as to the physical delineation of the Area and any associated signage or fencing;
  - (b) specifying any time period for application of the Order;
  - (c) restricting access to the Area, whether entirely or in part and whether or not at specified times or for specified periods;
  - (d) specifying persons who may enter the Area, and the purposes for which they may enter;
  - (e) prohibiting specified acts or activities within the Area, whether or not at specified times or for specified periods; and
  - (f) creating sanctions for breach of any restriction or prohibition.
- (2) Before making an Order under paragraph (1), the Minister must give notice in writing of –
  - (a) the proposed designation of an Area of Special Protection;
  - (b) the reasons for the proposed designation; and
  - (c) the intended provisions of the Order,to every owner or occupier of land falling within the area proposed to be designated.
- (3) The notice required by paragraph (2) must include provision –
  - (a) giving the persons to whom it is addressed sufficient opportunity to make representations to the Minister in relation to the proposed designation and Order; and

- (b) inviting those persons to agree, subject to any such representations, to the proposed designation.
- (4) The Minister must, as soon as reasonably practicable, consider any representations made under paragraph (3)(a) and having done so may –
  - (a) make the Order as originally proposed, or with such modifications as the Minister may consider reasonable; or
  - (b) withdraw the proposal to make the Order,and in either case must give notice in writing of the action taken under this provision to the same persons as those to whom notice was given under paragraph (2).
- (5) If in the Minister’s reasonable opinion it is impracticable to give notice as required by paragraph (2) or (4), the Minister must publish the same particulars as described in that paragraph by such means as may be reasonably considered sufficient to bring the proposed designation to the attention of those affected by it.
- (6) The Minister must not make an Order under this Article before the expiration of a period of 28 days from the date of the giving of the notice under paragraph (2) or (4), or from the date of publication under paragraph (5), whichever may be applicable, and after the expiration of that period may do so only with the agreement of all the persons to whom the notice was given, or if –
  - (a) any of the persons to whom the notice was given have failed –
    - (i) to respond to the notice at all, or
    - (ii) to reach an agreement with the Minister as to the proposed designation; and
  - (b) the Minister considers it unlikely that agreement to the proposed designation can be reached with all those persons.
- (7) The making of an Order under this Article does not affect the reasonable and lawful exercise by a person, within the designated area, of a right vested in the person –
  - (a) as owner or occupier of land within that area; or
  - (b) under any agreement, however described, in respect of such land.
- (8) Nothing in this Article makes unlawful anything lawfully done, within an Area of Special Protection –
  - (a) under any other provision of this Part; or
  - (b) under and in accordance with a licence.

## PART 5

### LICENCES

#### **36 Minister’s power to grant licences**

- (1) The Minister may grant, in accordance with this Part, a licence authorising a person to do anything which would otherwise constitute an offence under Parts 2 to 4.

- (2) The Minister may grant a licence only –
  - (a) for one or more of the purposes listed in Article 37, which must be specified in the licence; and
  - (b) if the Minister is satisfied that, as regards the particular purpose so specified –
    - (i) there is no satisfactory course of action other than that authorised by the licence, and
    - (ii) anything authorised by the licence will not be detrimental to the survival of the population concerned.
- (3) A licence granted under the power conferred by this Article is valid only for the period, if any, specified in the licence, and may –
  - (a) authorise action which is general or specific;
  - (b) be granted to persons generally, to a class of persons or to a particular person;
  - (c) be granted subject to compliance with such conditions as may be specified; and
  - (d) be modified or revoked by the Minister at any time.
- (4) The Minister may charge, in connection with the grant of a licence, such a fee as may be prescribed.
- (5) A licence which is granted to a particular person must be in writing and sent to the person.
- (6) A licence which is granted to a class of persons or is otherwise of general application must be publicised in such manner as the Minister considers appropriate to bring the licence to the notice of the persons to whom it is granted or applies, including publicising –
  - (a) the purpose of the licence and any specified conditions; and
  - (b) the date on which the licence becomes operative and, if applicable, is amended, suspended or revoked.
- (7) A person aggrieved by –
  - (a) the grant of, or refusal to grant, a licence to him or her;
  - (b) a condition specified in a licence or the lack of such a condition; or
  - (c) the amendment, suspension or revocation of a licence,may in writing request the Minister to reconsider the decision in question.
- (8) Where a person makes a request in writing under paragraph (7), the Minister may give the person reasonable opportunity to make further representations in relation to the matter by which the person is aggrieved, and must either –
  - (a) decline to reconsider the decision, and in that case the Minister must, as soon as reasonably practicable, notify the person in writing that the Minister declines to do so, and stating the reasons for declining; or
  - (b) reconsider the decision, and in that case the Minister must, as soon as reasonably practicable, notify the person in writing of the result of such reconsideration and the reasons for it.

### **37 Purposes for which licences may be granted**

- (1) The following purposes are those for which a licence may be granted as mentioned in Article 36(2)(a), namely –
  - (a) scientific or educational purposes;
  - (b) ringing or marking, or attaching any other identifying or tracking device to, any wild animal or wild bird, or examining any ring, mark or device;
  - (c) preserving public health or public safety, or similar imperative reasons including those of a social or economic nature and beneficial consequences of primary importance to the environment;
  - (d) enabling reasonable and lawful development, within the meaning given by the Planning and Building (Jersey) Law 2002<sup>6</sup>, of, in or upon any area of land;
  - (e) repopulation of an area with, or introduction or re-introduction into an area of, wild animals, wild birds or wild plants, including any breeding or propagation necessary for that purpose;
  - (f) conserving wild animals, wild birds, or wild plants;
  - (g) preventing the spread of disease;
  - (h) protecting any zoological or biological collection;
  - (i) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property, or fisheries;
  - (j) photography.
- (2) The Minister may by Order amend the list of purposes in paragraph (1).

### **38 Offence: breach of licence conditions**

- (1) It is an offence for a person to whom a licence is granted to contravene, or fail to comply with, any condition specified in the licence in accordance with Article 36(3)(c).
- (2) But a person does not commit an offence under paragraph (1) if –
  - (a) he or she took all reasonable precautions and exercised all due diligence to avoid commission of the offence; or
  - (b) the commission of the offence was otherwise due to matters beyond his or her control.
- (3) A person guilty of an offence under paragraph (1) is liable to imprisonment for a term of 12 months and a fine.

### **39 Offence: false statements**

A person who, for the purpose of obtaining the grant of a licence –

- (a) makes a statement or representation, or furnishes a document or information which the person knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,

is guilty of an offence and liable to imprisonment for a term of 12 months and a fine.

## PART 6

### GENERAL AND MISCELLANEOUS PROVISIONS

#### 40 Appeals

- (1) A person aggrieved by a decision of a kind listed in paragraph (2) may appeal to the Royal Court against the decision, on a ground specified in that paragraph in respect of that decision.
- (2) The following decisions are those against which an appeal lies under paragraph (1) –
  - (a) a species control order, on the ground that –
    - (i) it is unreasonable in all the circumstances for the species control order to be made, or
    - (ii) a provision of the species control order is not proportionate to the objective to be achieved;
  - (b) an Order designating an Area of Special Protection, on the ground that it is unreasonable in all the circumstances to make the Order;
  - (c) the result of a reconsideration, by the Minister, of representations made under Article 36(7) in relation to an application for grant of a licence.
- (3) In this Article, a “person aggrieved” is –
  - (a) in relation to a notice, a person on whom the notice is served;
  - (b) in relation to an Order, a person to whom the Order is addressed or whose property is, or would potentially be, directly and materially adversely affected by the making of the Order;
  - (c) in relation to a licence, the applicant for the licence.
- (4) On determination of an appeal under this Article, the Royal Court may –
  - (a) affirm, revoke, vary or suspend a decision, or any Order or any provision of an Order;
  - (b) refer the decision back to the Minister for reconsideration; or
  - (c) substitute such other decision, Order or provision as the Court may think fit.

#### 41 Compensation

- (1) The Minister may make arrangements for the payment of compensation to an owner of premises in respect of financial loss resulting from –
  - (a) a species control agreement or order;
  - (b) the exercise of powers of entry under Part 4; or
  - (c) expropriation of the premises as a result of the designation of an Area of Special Protection.

- (2) The arrangements may secure that compensation is payable only for financial loss above a specified amount.

## **42 Enforcement: general powers**

- (1) If a police officer or any other officer authorised by the Minister for this purpose (an “authorised officer” for the purposes of this Part) suspects with reasonable cause that any person is committing or has committed an offence under this Law, the officer may, at any reasonable hour –
  - (a) enter and search any premises, other than premises used wholly or mainly as a private dwelling;
  - (b) stop, enter and search any vehicle;
  - (c) stop and search any person; and
  - (d) seize and detain any property found within the premises or vehicle.
- (2) The Bailiff or a Jurat, if satisfied on sworn information that –
  - (a) there are reasonable grounds for entry into any premises as mentioned in paragraph (1); and
  - (b) either –
    - (i) the premises are used wholly or mainly as a private dwelling, or
    - (ii) any of the circumstances in paragraph (3) applies,may grant a warrant authorising a police officer or an authorised officer to enter the premises and to use such force as is reasonably necessary to do so.
- (3) The circumstances mentioned in paragraph (2)(b)(ii) are that –
  - (a) admission has been refused, or a refusal is expected, and (in either case) notice of the application for a warrant has been given to the occupier;
  - (b) asking for admission, or the giving of notice of an application for a warrant, would defeat the object of the entry; or
  - (c) the case is one of urgency and the premises are unoccupied or the occupier is absent.
- (4) A warrant granted under this Article is valid for one month.
- (5) A police officer or an authorised officer who exercises power to enter premises which are unoccupied or whose occupier is absent must, so far as reasonably practicable, leave the premises secured as effectively as he or she found them.

## **43 Enforcement: supplementary powers**

- (1) A police officer or an authorised officer entering any premises or vehicle under Article 42 may further, for the purpose of investigating whether or not an offence under this Law has been committed, do all such things and take all such steps as are reasonably necessary, including the actions listed in paragraph (2) and the exercise of the powers conferred by paragraph (3).

- (2) The actions mentioned in paragraph (1) are –
  - (a) inspecting, examining and seizing anything on or in the premises or vehicle, including live animals and live birds, and documents and computer records;
  - (b) transcribing, copying and detaining any documents and records;
  - (c) recording, measuring or photographing anything on or in the premises or vehicle;
  - (d) detaining, isolating or requiring the movement of an animal, bird or plant, in accordance with the conditions in Article 44(4), or of any inanimate thing;
  - (e) taking samples, in accordance with the conditions in Article 44(4), from an animal or bird or of any plant or of any inanimate thing.
- (3) A police officer or authorised officer may, by notice served on a person who is the owner or occupier of premises or the owner of any vehicle, require that person to take such reasonable steps as the officer may specify to collect or restrain any animal, bird or plant of which the person has possession or control.
- (4) An authorised officer exercising powers under this Article may, as he or she considers necessary –
  - (a) be accompanied by such other persons; and
  - (b) take with him or her onto any premises such equipment, including vehicles.
- (5) Where a police officer or an authorised officer seizes or detains any property under this Article or Article 42, the officer must give, to any person who appears to the officer to be the person owning or otherwise having possession or control of that property, a receipt for the property in writing and stating the date on which, and the powers under which, it has been so seized or detained.
- (6) A police officer or an authorised officer is not personally liable for anything that he or she does when acting in the execution or purported execution of powers under this Part, but nothing in this paragraph is to be taken to exclude liability of a public authority under Article 7(1) of the Human Rights (Jersey) Law 2000<sup>7</sup>.

#### **44 General defence for exercise of enforcement powers**

- (1) No offence is committed under Part 2 by injuring a wild animal or wild bird if –
  - (a) the injury is caused solely for the purpose of taking, from the animal or bird, a sample to be used as evidence in proceedings for an offence under this Law; and
  - (b) the conditions in paragraph (4) are satisfied.
- (2) No offence is committed under Part 3 by picking or cutting a wild plant if –
  - (a) the plant is picked or cut solely for the purpose of taking, from the plant, a sample to be used as evidence in proceedings for an offence under this Law; and

- (b) the conditions in paragraph (4) are satisfied.
- (3) No offence is committed under Article 10, 11, 12 or 14 if –
  - (a) the taking, possession, control or transport in question is solely for the purpose of –
    - (i) investigating whether an offence under this Law has been or is being committed,
    - (ii) bringing, conducting, or giving evidence in proceedings for an offence under this Law, or
    - (iii) giving effect to a species control Order; and
  - (b) the conditions in paragraph (4) are satisfied.
- (4) The conditions mentioned in the preceding paragraphs of this Article are that –
  - (a) there is no satisfactory alternative to –
    - (i) causing the injury, in the case of paragraph (1),
    - (ii) picking or cutting the plant, in the case of paragraph (2),
    - (iii) taking, possessing, controlling or transporting the animal, bird or plant, in the case of paragraph (3); and
  - (b) the action is not detrimental to the maintenance of the population of the species of animal, bird or plant at a favourable conservation status in its natural range.

#### **45 Offence: obstruction**

A person who intentionally obstructs an authorised officer or a police officer in the exercise of any of the officer's powers under Article 27, 28, 42 or 43 commits an offence and is liable to imprisonment for a term of 12 months and a fine.

#### **46 Calculation of penalty**

Where any offence under this Law is committed in respect of more than one animal, bird, plant or other thing to which the offence relates, the maximum penalty which may be imposed for the offence is to be determined as if the offender had been convicted of a separate offence in respect of each of them.

#### **47 Forfeiture**

The court by which any person is convicted of an offence under this Law –

- (a) must order the forfeiture of any animal, bird, nest, egg, plant or other thing in respect of which the offence is committed;
- (b) may order the forfeiture of any vehicle, animal, weapon or other thing used to commit the offence; and
- (c) in the case of an offence under Article 20, 23 or 24, may order the forfeiture of any animal, bird or plant which is of the same kind as that in respect of which the offence is committed and which is found in the offender's possession.



**48 Service of notices**

- (1) This Article has effect in relation to any notice or other document required or authorised by or under this Law to be given to or served on any person.
- (2) Any such document may be given to or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving at the person's proper address; or
  - (c) by sending it by post to the person at that address.
- (3) Any such document may –
  - (a) in the case of a company, be given to or served on the secretary, clerk or other similar officer of the company or any person who purports to act in any such capacity, by whatever name called; or
  - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954<sup>8</sup> in its application to this Article, the proper address of any person to or on whom a document is to be given or served is the person's last known address, except that –
  - (a) in the case of a company or its secretary, clerk or other officer or person referred to in paragraph (3)(a), the proper address is the address of the registered or principal office of the company; or
  - (b) in the case of a partnership or a person having the control or management of the partnership business, the proper address is the address of the principal office of the partnership,and for the purposes of this paragraph, the principal office of a company registered outside Jersey or of a partnership carrying on business outside Jersey is their principal office within Jersey.
- (5) If the person to be given or served with any document mentioned in paragraph (1) has specified an address within Jersey other than the person's proper address within the meaning of paragraph (4) as the one at which the person or someone on the person's behalf will accept documents of the same description as that document, that address is also to be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954<sup>9</sup> as the person's proper address.

**49 Power to amend Schedules, etc.**

- (1) The Minister may by Order amend –
  - (a) a Schedule to this Law, and its corresponding entry in Article 5(1); and
  - (b) a time period specified in a provision of this Law.
- (2) A provision of an Order made under paragraph (1) (or a provision of a Schedule as in force after amendment by such an Order) may be expressed to have effect either generally or with respect to particular

provisions of this Law, a particular area of Jersey or particular times of the year.

## 50 Orders

- (1) The Minister may by Order make provision for any matter that is to be prescribed or specified under this Law.
- (2) An Order made by the Minister under this Law may contain such further consequential, incidental, supplementary or transitional provision as the Minister may consider necessary, including provision –
  - (a) amending any enactment;
  - (b) creating offences punishable by a fine; and
  - (c) as to the amount, and time and manner of payment, of fees.

## 51 Guidance

- (1) The Minister may from time to time issue and publish guidance as to the application of a provision of this Law, whether generally or in relation to particular species of wild animals, wild birds or wild plants, and –
  - (a) where it appears to the court, when conducting any civil or criminal proceedings, that such guidance is relevant to a question arising in those proceedings, the guidance must be taken into account in determining the question; but
  - (b) a failure by an authorised officer to comply with such guidance does not of itself make the officer liable to any civil or criminal proceedings.
- (2) The Minister may amend or revoke any guidance issued under paragraph (1).
- (3) Before issuing, amending, or revoking any guidance under this Article the Minister must consult such persons as appear to the Minister to be appropriate.
- (4) If the Minister amends any guidance published under this Article, the Minister must publish the amended guidance in the same manner as that in which the guidance was first published.

## 52 Repeals

The Conservation of Wildlife (Jersey) Law 2000<sup>10</sup> and the Animals (Trapping) (Jersey) Law 1961<sup>11</sup> are repealed.

## 53 Consequential amendment of other enactments

- (1) In the Endangered Species (CITES) (Jersey) Law 2012<sup>12</sup>, in Articles 21(2)(a), 22(1)(a), and 23(a) (respectively, conditions relating to an Appendix 1, 2 or 3 specimen) for the reference in each place to the Conservation of Wildlife (Jersey) Law 2000 there is substituted a reference to this Law.

- (2) For Regulation 2(6)(a) (purpose and scope) of the EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016<sup>13</sup> there is substituted –
- “(a) Article 20 of the Wildlife (Jersey) Law 202-<sup>14</sup> and any Order under Article 30 of that Law; and”.
- (3) For Regulation 2(5)(e) (effect of EU food and feed provisions in relation to wild aquatic animals) of the EU Legislation (Wild Aquatic Animals – Food and Feed) (Jersey) Regulations 2019<sup>15</sup> there is substituted –
- “(e) the Wildlife (Jersey) Law 202-<sup>16</sup>”.
- (4) In Article 45(8)(a) (restrictions on hunting any bird or animal) of the Firearms (Jersey) Law 2000<sup>17</sup>, for the words “for the purposes of Article 5(2)(b) of the Conservation of Wildlife (Jersey) Law 2000” there are substituted the words “for the purposes of Article 7(1) of the Wildlife (Jersey) Law 202-<sup>18</sup>”.
- (5) In the table in Schedule 3 (enactments conferring power to issue a search warrant) to the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>19</sup>, for the item and entry –
- |  |             |
|--|-------------|
| “Conservation of Wildlife (Jersey)<br>Law 2000 | Article 18” |
|--|-------------|
- there is substituted –
- |                             |                             |
|-----------------------------|-----------------------------|
| “Wildlife (Jersey) Law 202- | Article 42 <sup>20</sup> ”. |
|-----------------------------|-----------------------------|
- (6) For Article 4(5)(d) (prohibition of slaughter, etc.) of the Slaughter of Animals (Jersey) Law 1962<sup>21</sup>, there is substituted –
- “(d) the Wildlife (Jersey) Law 202-<sup>22</sup>”.

#### 54 Citation and commencement

This Law may be cited as the Wildlife (Jersey) Law 202-, and comes into force 7 days after the day on which it is registered.

**SCHEDULE 1**

(Article 5)

**PROTECTED WILD ANIMALS**

<i>Common name</i>	<i>Species name</i>	<i>Specific provisions conferring protection*</i>
Ant, European red wood	<i>Formica pratensis</i>	
Allis shad	<i>Alosa alosa</i>	Articles 14, 15 and 20
Bats, horseshoe (all species)	<i>Rhinodophidae</i>	
Bats, typical (all species)	<i>Vespertilionidae</i>	
Bee, vernal colletes	<i>Colletes canicularius</i>	Articles 7, 14, 15, 19 and 20
Beetle, stag	<i>Lucanus cervus</i>	
Cricket, field	<i>Gryllus campestris</i>	Articles 7, 14, 15, 19 and 20
Damselfly, southern emerald	<i>Lestes barbarous</i>	Articles 7, 14, 15, 19 and 20
Dolphins (all species)	<i>Delphinidae</i>	
Fan mussel	<i>Atrina fragilis</i>	
Five-shilling shell	<i>Maetra glauca</i>	Articles 14 and 15
Frog, agile	<i>Rana damaltina</i>	
Grasshopper, heath	<i>Chorthippus vagans</i>	Articles 7, 14, 15, 19 and 20
Grasshopper, Jersey	<i>Euchorthippus pulvinatus</i> <i>subs. Elegantulus</i>	Articles 7, 14, 15, 19 and 20
Hairstreak, white letter	<i>Satyrium w-album</i>	Articles 7, 14, 15, 19 and 20
Hedgehog	<i>Erinaceus europaeus</i>	Articles 7, 14, 15, 19 and 20
Hoverfly	<i>Chrysotoxom vernale</i>	Articles 7, 14, 15, 19 and 20
Lizard, green	<i>Lacerta viridis</i> or <i>Lacerta bilineata</i>	Articles 7, 14, 15, 19 and 20
Lizard, wall	<i>Podarcis muralis</i>	
Lumpsucker	<i>Cyclopterus lumpus</i>	

Newt, palmate	<i>Lissotriton helveticus</i> or <i>Triturus helveticus</i>	Articles 7, 14, 15, 19 and 20
Pink sea fan	<i>Eunicella verrucosa</i>	
Porpoises (all species)	<i>Cetacea</i>	
Seahorse, long-snouted	<i>Hippocampus guttulatus</i>	
Seahorse, short-snouted	<i>Hippocampus hippocampus</i>	
Seals (all species)	<i>Pennipedia</i>	
Sharks, pelagic (all species except houndsharks and catsharks)	<i>Selachimorpha</i> (except <i>Triakidae</i> and <i>Scyliorhinidae</i> )	
Shrew, Millet's, common, or French	<i>Sorex coronatus ssp fretalis</i>	Articles 7, 14, 15, 19 and 20
Shrew, lesser white-toothed	<i>Crocidura suaveolens</i>	Articles 7, 14, 15, 19 and 20
Slow-worm	<i>Anguis fragilis</i>	Articles 7, 14, 15, 19 and 20
Snake, grass	<i>Natrix natrix</i> and <i>Natrix Helvetica</i>	
Squirrel, red	<i>Sciurus vulgaris</i>	
Sturgeon	<i>Acipenser sturio</i>	
Sunfish	<i>Mola mola</i>	Articles 7, 14, 15, 19 and 20
Sunset cup-coral	<i>Leptopsammia pruvoti</i>	
Swallowtail	<i>Papilla machaon</i>	Articles 7, 14, 15, 19 and 20
Twaite shad	<i>Allosa fallax</i>	Articles 7, 14, 15, 19 and 20
Toad, common	<i>Bufo bufo</i> and <i>Bufo spinosus</i>	
Tuna, Atlantic Bluefin	<i>Thunnus thynnus</i>	
Turtle, marine (all species)	<i>Chelonidae</i> and <i>Dermochelyidae</i>	
Vole, Jersey bank	<i>Clethrionomys glareolus ssp. caesarius</i>	Articles 7, 14, 15, 19 and 20
Whales (all species)	<i>Cetacea</i>	

\* Where specific provisions are not identified in this column, the species enjoys all protections conferred by the Law.

**SCHEDULE 2**

(Article 5)

**PROTECTED WILD BIRDS**

All wild birds, except birds of the following species:

<i>Common name</i>	<i>Species name</i>
Crow, carrion	<i>Corvus corone</i>
Magpie	<i>Pica pica</i>
Pigeon, feral	<i>Columba livia</i>
Pigeon, wood	<i>Columba palumbus</i>

**SCHEDULE 3**

(Articles 5, 9 and 10)

**PROTECTED WILD ANIMALS AND WILD BIRDS WHICH RE-USE THEIR DENS OR NESTS****PART 1****PROTECTED WILD ANIMALS**

<i>Common name</i>	<i>Species name</i>
Bats, horseshoe (all species)	<i>Rhinolophidae</i>
Bats, typical (all species)	<i>Vespertilionidae</i>
Frog, agile	<i>Rana damaltina</i>
Snake, grass	<i>Natrix natrix and Natrix helvetica</i>

**PART 2****PROTECTED WILD BIRDS**

<i>Common name</i>	<i>Species name</i>
Chough, red-billed	<i>Pyrhacorax pyrrhacorax</i>
Falcon, peregrine	<i>Falco peregrinus</i>
House martin, common	<i>Delichon urbicum</i>
Kestrel, common	<i>Falco tinnunculus</i>
Martin, sand	<i>Riparia riparia</i>
Owl, barn	<i>Tyto alba</i>
Owl, long-eared	<i>Asio otus</i>
Puffin, Atlantic	<i>Fratercula arctica</i>
Razorbill	<i>Alca torda</i>
Shearwater, Manx	<i>Puffinus puffinus</i>
Storm petrel, European	<i>Hydrobates pelagicus</i>
Swallow, barn	<i>Hirundo rustic</i>
Swift, common	<i>Apus apus</i>

**SCHEDULE 4**

(Articles 5, 11)

**WILD ANIMALS WHOSE BREEDING SITES AND RESTING SITES ARE PROTECTED****PART 1****PROTECTED AT ANY TIME**

<i>Common name</i>	<i>Species name</i>
Bats, horseshoe (all species)	<i>Rhinolophidae</i>
Bats, typical (all species)	<i>Vespertilionidae</i>
Frog, agile	<i>Rana damaltina</i>
Snake, grass	<i>Natrix natrix and Natrix helvetica</i>

**PART 2****PROTECTED WHEN IN USE**

<i>Common name</i>	<i>Species name</i>
Ant, European red wood	<i>Formica pratensis</i>
Beetle, stag	<i>Lucanus cervus</i>
Lizard, wall	<i>Podarcis muralis</i>
Seals (all species)	<i>Pennipedia</i>
Snake, grass	<i>Natrix natrix and Natrix Helvetica</i>
Toad, common	<i>Bufo bufo and Bufo spinosus</i>
Turtles, marine (all species)	<i>Cheloniidae and Dermochelyidae</i>



**SCHEDULE 5**

(Articles 5, 12)

**WILD BIRDS WHOSE BREEDING SITES AND RESTING SITES ARE PROTECTED****PART 1****PROTECTED AT ANY TIME**

<i>Common name</i>	<i>Species name</i>
Cormorant, great	<i>Phalacrocorax carbo</i>
Egret, little	<i>Egretta garzetta</i>
Falcon, peregrine	<i>Falco peregrinus</i>
Hoopoe, Eurasian	<i>Upupa epops</i>
Lapwing, northern	<i>Vanellus vanellus</i>
Marsh harrier, Eurasian	<i>Circus aeruginosus</i>
Martin, sand	<i>Riparia riparia</i>
Puffin, Atlantic	<i>Fratercula arctica</i>
Razorbill	<i>Alca sorda</i>
Shag, European	<i>Phalacrocorax aristotelis</i>
Shearwater, Manx	<i>Puffinus puffinus</i>
Skylark	<i>Alauda arvensis</i>
Storm petrel, European	<i>Hydrobates pelagicus</i>
Swallow, barn	<i>Hirunda rustica</i>
Tern, common	<i>Sterna hirundo</i>
Tern, little	<i>Sternula albifrons</i>
Tern, roseate	<i>Sterna dougallii</i>
Tern, Sandwich	<i>Sterna Sandvicensis</i>

**PART 2****PROTECTED WHEN IN USE**

<i>Common name</i>	<i>Species name</i>
Bee-eater, European	<i>Merops aplaster</i>
Bluethroat	<i>Luscinia svecica</i>
Bullfinch, Eurasian	<i>Pyrrhula pyrrhula</i>
Bunting, ciril	<i>Emberiza cirilus</i>
Buzzard, common	<i>Buteo buteo</i>
Chough, red-billed	<i>Pyrrhocorax pyrrhocorax</i>
Crane, common	<i>Gras gras</i>
Cuckoo, common	<i>Clamator glandarius</i>
Dove, European turtle	<i>Streptopelia turtur</i>
Egret, little	<i>Egretta garzetta</i>
Firecrest	<i>Regulus ignicapillus</i>
Flycatcher, spotted	<i>Muscicapa striata</i>
Gadwall	<i>Anas strepera</i>
Golden oriole, Eurasian	<i>Oriolus oriolus</i>
Grebe, black-necked	<i>Podiceps nigricollis</i>
Grebe, little	<i>Tachybaptus ruficollis</i>
Gull, Mediterranean	<i>Larus melanocephalus</i>
Hobby, Eurasian	<i>Falco subbuteo</i>
Ibis, glossy	<i>Plegadis falcinellus</i>
Kestrel, common	<i>Falco tinnunculus</i>
Kingfisher, common	<i>Alcedo atthis</i>
Nightingale, common	<i>Luscinia megarhynchos</i>
Nightjar, European	<i>Caprimulgus Europaeus</i>
Owl, barn	<i>Tyto alba</i>
Owl, long-eared	<i>Asio otus</i>
Plover, little ringed	<i>Charadrius dubius</i>
Plover, ringed	<i>Charadrius hiaticula</i>
Plover, Kentish	<i>Anarhynchus alexandrinus</i>

<i>Common name</i>	<i>Species name</i>
Redstart, black	<i>Phoenicurus ochrensis</i>
Rosefinch, common	<i>Erythrina erythrina</i>
Serin, European	<i>Serinus serinus</i>
Shoveler, northern	<i>Anas clypeata</i>
Sparrowhawk	<i>Accipiter nisus</i>
Spoonbill, Eurasian	<i>Platalea leucorodia</i>
Starling, common	<i>Sturnus vulgaris</i>
Stilt, black-winged	<i>Himantopus himantopus</i>
Stonechat, Eurasian	<i>Saxicola rubicola</i>
Thrush, mistle	<i>Turdus viscivorus</i>
Tit, bearded	<i>Panurus biarmicus</i>
Wagtail, yellow	<i>Motacilla flava</i>
Warbler, Cetti's	<i>Cettia cetti</i>
Warbler, Dartford	<i>Sylvia undata</i>
Warbler, sedge	<i>Acrocephalus schoenobaenus</i>
Water rail	<i>Rallus aquaticus</i>
Wheatear, northern	<i>Oenanthe oenanthe</i>
Woodpecker, lesser spotted	<i>Dryobates minor</i>
Yellowhammer	<i>Emberiza citrinella</i>

**SCHEDULE 6**

(Articles 5, 13)

**WILD ANIMALS AND WILD BIRDS WHICH ARE PROTECTED FROM  
DISTURBANCE****PART 1****WILD BIRDS**

All wild birds, except birds of the following species:

<i>Common name</i>	<i>Species name</i>
Crow, carrion	<i>Corvus corone</i>
Magpie	<i>Pica pica</i>
Pigeon, feral	<i>Columba livia</i>
Pigeon, wood	<i>Columba palumbus</i>
Pheasant, common	<i>Phasianus colchicus</i>

**PART 2****WILD ANIMALS**

<i>Common name</i>	<i>Species / family name</i>
Bats, horseshoe (all species)	<i>Rhinolophidae</i>
Bats, typical (all species)	<i>Vespertilionidae</i>
Dolphins (all species)	<i>Delphinidae</i>
Frog, agile	<i>Rana dalmatina</i>
Lizard, wall	<i>Podarcis muralis</i>
Porpoises (all species)	<i>Delphinidae</i>
Sharks, pelagic (all species except houndsharks and catsharks)	<i>Selachimorpha</i> (except <i>Triakidae</i> and <i>Scyliorhinidae</i> )
Seahorse, long-snouted	<i>Hippocampus guttulatus</i>
Seahorse, short-snouted	<i>Hippocampus hippocampus</i>
Seals (all species)	<i>Pennipedia</i>
Snake, grass	<i>Natrix natrix</i> and <i>Natrix helvetica</i>
Sunfish	<i>Mola mola</i>

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Tuna, Atlantic Bluefin	<i>Thunnus thynnus</i>
Turtles, marine (all species)	<i>Cheloniidae and Dermochelyidae</i>
Whales (all species)	<i>Cetacea</i>

**SCHEDULE 7**

(Articles 5, 7 and 15)

**ANIMALS AND BIRDS TO BE RELEASED WITHIN 48 HOURS****PART 1****WILD BIRDS**

All wild birds, except birds of the following species:

<i>Common name</i>	<i>Species name</i>
Crow, carrion	<i>Corvus corone</i>
Magpie	<i>Pica pica</i>
Pigeon, feral	<i>Columba livia</i>
Pigeon, wood	<i>Columba palumbus</i>
Pheasant, common	<i>Phasianus colchicus</i>

**PART 2****WILD ANIMALS**

<i>Common name</i>	<i>Species / family name</i>
Bats, horseshoe (all species)	<i>Rhinolophidae</i>
Bats, typical (all species)	<i>Vespertilionidae</i>
Frog, agile	<i>Rana dalmatina</i>
Snake, grass	<i>Natrix natrix and Natrix helvetica</i>

**SCHEDULE 8**

(Article 5 and Part 3)

**PROTECTED WILD PLANTS ETC.**

<i>Common Name</i>	<i>Species Name</i>	<i>Specific provisions conferring protection*</i>
Agrimony	<i>Agrimonia eupatoria</i>	
Agrimony, fragrant	<i>Agrimonia procera</i>	
Asparagus, wild	<i>Asparagus officinalis</i> var. <i>prostrates</i>	
Autumn lady's-tresses	<i>Spiranthes spiralis</i>	
Bird's-foot, orange	<i>Ornithopus pinnatus</i>	
Broomrape, greater	<i>Orobanche rapum-genistae</i>	
Buttercup, Jersey	<i>Ranunculus paludosus</i>	
Caraway, whorled	<i>Carum verticillatum</i>	
Cat's ear, spotted	<i>Hypochaeris maculata</i>	
Celery, wild	<i>Apium graveolens</i>	
Centaury, yellow	<i>Cicendia filiformis</i>	
Chaffweed	<i>Centunculus minimus</i>	
Clover, long-headed	<i>Trifolium incarnatum</i> subsp. <i>Molinerii</i>	
Clover, strawberry	<i>Trifolium fragiferum</i>	
Cottongrass, common	<i>Eriophorum angustifolium</i>	
Cowslip	<i>Primula veris</i>	
Crowfoot, ivy-leaved	<i>Ranunculus hederaceus</i>	
Cudweed, Jersey	<i>Gnaphalium luteo-album</i>	
Dock, shore	<i>Rumex rupestris</i>	
Dog-violet, heath	<i>Viola canina</i>	
Fern, Jersey	<i>Anogramma leptophylla</i>	
Fern, maidenhair	<i>Adiantum capillus-veneris</i>	
Flax, pale	<i>Linum bienne</i>	
Fluellin, sharp-leaved	<i>Kickxia elatine</i>	

<i>Common Name</i>	<i>Species Name</i>	<i>Specific provisions conferring protection*</i>
Forget-me-not, Jersey	<i>Myosotis sicula</i>	
Galingale, brown	<i>Cyperus fuscus</i>	
Glasswort	<i>Salicornia europaea</i>	
Grass, poly	<i>Lythrum hyssopifolia</i>	
Leek, round-headed	<i>Allium sphaerocephalon</i>	
Longleaf	<i>Falcaria vulgaris</i>	
Mat-grass	<i>Nardus stricta</i>	
Mignonette, wild	<i>Reseda lutea</i>	
Orchid, bee	<i>Ophrys apifera</i>	
Orchid, common spotted	<i>Dactylorhiza fuchsia</i>	
Orchid, early marsh	<i>Dactylorhiza incarnata</i>	
Orchid, early-purple	<i>Orchis mascula</i>	
Orchid, early spider	<i>Ophrys sphegodes</i>	
Orchid, green winged	<i>Anacamptis morio</i>	
Orchid, heath spotted	<i>Dactylorhiza maculate</i>	
Orchid, Jersey (loose-flowered)	<i>Anacamptis laxiflora</i>	
Orchid, lizard	<i>Himantoglossum hircinum</i>	
Orchid, pyramidal	<i>Anacamptis pyramidalis</i>	Articles 19, 22 and 24
Orchid, southern marsh	<i>Dactylorhiza praetermissa</i>	
Pimpernel, yellow	<i>Lysimachia nemorum</i>	
Pink, Jersey	<i>Dianthus gallicus</i>	
Plantain, hoary	<i>Plantago media</i>	
Pondweed, horned	<i>Zannichellia palustris</i>	
Poppy, yellow horned	<i>Glaucium flavum</i>	Articles 19, 22 and 24
Rattle, yellow	<i>Rhinanthus minor</i>	
Sandwort, fine-leaved	<i>Minuartia hybrida</i>	
Scabious, devil's-bit	<i>Succisa pratensis</i>	
Sea lavender, Alderney	<i>Limonium normanicum</i>	
Sea lavender, common	<i>Limonium vulgare</i>	



<i>Common Name</i>	<i>Species Name</i>	<i>Specific provisions conferring protection*</i>
Sedge, cyperus	<i>Carex pseudocyperus</i>	
Sedge, green-ribbed	<i>Carex binervis</i>	
Sedge, grey	<i>Carex divulsa</i>	
Sedge, star	<i>Carex echinate</i>	
Skullcap, lesser	<i>Scutellaria minor</i>	
Speedwell, blue water-	<i>Veronica anagallis-aquatica</i>	
Speedwell, marsh	<i>Veronica scutellate</i>	
Spurge, sea	<i>Euphorbia paralias</i>	
St. John's wort, marsh	<i>Hypericum elodes</i>	
St. John's wort, toadflax-leaved	<i>Hypericum linarifolium</i>	
Stock, sea	<i>Mathiola sinuate</i>	
Strawberry, wild	<i>Fragaria vesca</i>	Articles 19, 22 and 24
Sundew, round-leaved	<i>Drosera rotundifolia</i>	
Toadflax, common	<i>Linaria vulgaris</i>	
Vetch, yellow	<i>Vicia lutea</i>	
Water-crowfoot, thread-leaved	<i>Ranunculus trichophyllus</i>	
Water-plantain, lesser	<i>Baldellia ranunculoides</i>	
Waterwort, six-stamened	<i>Elatine hexandra</i>	
Woodrush, great	<i>Luzula sylvatica</i>	
FUNGI		
Pepperpot	<i>Myriostoma coliforme</i>	
Sandy stiltball	<i>Battarraea phalloides</i>	
LICHENS		
Lichen	<i>Umbilicaria grisea</i>	
Scrambled-egg lichen	<i>Fulgensia fulgens</i>	

\* Where specific provisions are not identified in this column, the species enjoys all protections conferred by the Law.

**SCHEDULE 9**

(Articles 5, 16 and 18)

**DEVICES, SUBSTANCES AND METHODS PROHIBITED FOR KILLING OR TAKING WILD ANIMALS****PART 1****DEVICES ETC. PROHIBITED GENERALLY**

Bows and crossbows

Explosives

Leghold traps

Live animals or birds used as decoys

Motorised vehicles and mechanically propelled vehicles or devices, including drones

Snares, except those which –

- (a) are not self-locking;
- (b) are inspected at least once in every 24-hour period of use;
- (c) comply with such further specifications as may be included in guidance issued from time to time by the Minister under Article 51; and
- (d) are operated in accordance with, and by a person who satisfies, any further conditions which may be specified in such guidance.

Spring traps, except those which –

- (a) are of a type used for the purpose of killing rats, mice and other small ground vermin (other than animals of species listed in Schedule 1);
- (b) are inspected at least once in every 24-hour period of use;
- (c) are positioned in such a manner as to avoid the capture of protected wild animals or protected wild birds;
- (d) comply with such further specifications as may be included in guidance issued from time to time by the Minister under Article 51; and
- (e) are operated in accordance with, and by a person who satisfies, any further conditions as may be included in such guidance.

**PART 2****DEVICES ETC. OF WHICH USE IS PROHIBITED IN RELATION TO PARTICULAR TYPES OF WILD ANIMAL**

<i>Type of animal</i>	<i>Prohibited device, etc.</i>
Amphibians, reptiles	Nets if applied for large-scale or non-selective taking or killing
Fish	Anaesthetic or stupefying substances Artificial lighting

	Electricity with alternating current Firearms
Mammals	Anaesthetic or stupefying substances Snares Artificial lighting, mirrors or other dazzling devices Automatic or semi-automatic weapons Devices for illuminating a target or other devices for night shooting Electrical devices capable of killing or stunning an animal Gassing or smoking out Nets or traps if applied for large-scale or non-selective taking or killing Sound recordings used as decoys
All wild animals except rats, mice and other small ground mammalian vermin	Poisonous substances including poisoned or anaesthetic bait
Rabbits	Myxomatosis

**SCHEDULE 10**

(Articles 5, 16 and 18)

**DEVICES, SUBSTANCES AND METHODS PROHIBITED FOR KILLING OR TAKING  
WILD BIRDS**

Anaesthetic or stupefying substances

Artificial lighting, mirrors or other dazzling devices

Automatic or semi-automatic weapons

Baited boards

Bird lime and any similar substance

Bows and crossbows

Chemical wetting agents

Devices for illuminating a target or other sighting devices for night shooting

Electrical devices that are capable of killing or stunning a bird

Explosives

Gassing or smoking out

Hooks

Motorised vehicles and mechanically propelled vehicles or devices, including drones

Nets if applied for large scale or non-selective capture or killing

Poison and poisoned or anaesthetic bait

Shot guns of which the barrel has an internal diameter at the muzzle of more than 2.00 centimetres (0.775 inches)

Snares

Traps

Using as a decoy a live bird or other animal which is tethered, or secured by means of braces or similar appliances, or which is blind, maimed or injured

Using a sound recording as a decoy

## **SCHEDULE 11**

(Articles 5, 18)

### **DEVICES AND SUBSTANCES OF WHICH POSSESSION ETC. IS PROHIBITED**

Grain or seed which has been rendered poisonous

**SCHEDULE 12**

(Articles 5, 20)

**SPECIES OF WHICH RELEASE ETC. IS PERMITTED**

<i>Common Name</i>	<i>Species Name</i>
Common or European mole	<i>Talpa europaea</i>

## SCHEDULE 13

(Articles 5, 20, 23 and Part 4)

### PROHIBITED INN SPECIES

#### 1 Interpretation of this Schedule

- (1) In paragraph 2, “Union list” means the list of invasive alien species of Union concern, referred to in paragraph (10) of the preamble to Regulation (EU) 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35-55), as amended, substituted, extended or applied from time to time by any other EU provision, or as it otherwise has effect in the EU from time to time by virtue of any judgment of the EU Court.
- (2) In sub-paragraph (1), “EU”, “EU Court” and “EU provision” have the same meanings as given by Article 1(1) of the European Union Legislation (Implementation) (Jersey) Law 2014<sup>23</sup>.

#### 2 Prohibited species

Hornet, Asian (*Vespa velutina*)

Knotweed, Japanese (*Fallopia japonica*)

Any species of animal, bird or plant appearing in the Union list as published from time to time at:

[https://ec.europa.eu/environment/nature/invasivealien/docs/R\\_2016\\_1141\\_Union-list-2019-consolidation.pdf](https://ec.europa.eu/environment/nature/invasivealien/docs/R_2016_1141_Union-list-2019-consolidation.pdf)

## ENDNOTES

### Table of Endnote References

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<a href="#">1</a>	<i>chapter 02.020</i>
<a href="#">2</a>	<i>chapter 02.050</i>
<a href="#">3</a>	<i>chapter 15.350</i>
<a href="#">4</a>	<i>chapter 15.350</i>
<a href="#">5</a>	<i>chapter 15.350</i>
<a href="#">6</a>	<i>chapter 22.550</i>
<a href="#">7</a>	<i>chapter 15.350</i>
<a href="#">8</a>	<i>chapter 15.360</i>
<a href="#">9</a>	<i>chapter 15.360</i>
<a href="#">10</a>	<i>L.6/2000 (chapter 22.450)</i>
<a href="#">11</a>	<i>L.36/1961 (chapter 02.200)</i>
<a href="#">12</a>	<i>chapter 02.600</i>
<a href="#">13</a>	<i>chapter 17.245.61</i>
<a href="#">14</a>	<i>P.110/2020</i>
<a href="#">15</a>	<i>R&amp;O.89/2019</i>
<a href="#">16</a>	<i>P.110/2020</i>
<a href="#">17</a>	<i>chapter 23.200</i>
<a href="#">18</a>	<i>P.110/2020</i>
<a href="#">19</a>	<i>chapter 23.750</i>
<a href="#">20</a>	<i>P.110/2020</i>
<a href="#">21</a>	<i>chapter 02.800</i>
<a href="#">22</a>	<i>P.110/2020</i>
<a href="#">23</a>	<i>chapter 17.245</i>