

2009 No. 419

WILDLIFE

**The Wildlife and Countryside (Registration and Ringing of
Certain Captive Birds) (Scotland) Regulations 2009**

Made - - - - - *24th November 2009*

Laid before the Scottish Parliament *26th November 2009*

Coming into force - - - *21st December 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 7(1) and (2) of the Wildlife and Countryside Act 1981(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Scotland) Regulations 2009 and come into force on 21st December 2009.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Wildlife and Countryside Act 1981;

“keep” means keep, possess or control;

“keeper” means the person who keeps, or has possession of, or control over, a bird;

“register” means the register referred to in regulation 3(1); and

“ring” means any ring or band for ringing a bird.

(2) Any reference to a bird to which these Regulations apply is a reference to any bird included in Schedule 4 to the Act which any person keeps, possesses or controls.

Registration

3.—(1) The Scottish Ministers must, for the purposes of section 7(1) of the Act, maintain a register of birds to which these Regulations apply which are kept at addresses in Scotland.

(2) An application for registration must be made by either the keeper or the prospective keeper of the bird to which the application relates.

(a) 1981 c.69. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.48).

(3) The Scottish Ministers must not register any bird on the register unless it has been ringed or marked in accordance with regulation 6(1).

(4) The Scottish Ministers may decline to make an entry in the register if an application is not accompanied by any charge determined under section 7(2A)(a) of the Act.

Termination of registration

4.—(1) Registration ceases to have effect when—

- (a) the registered bird—
 - (i) dies;
 - (ii) escapes or is released into the wild; or
 - (iii) is disposed of by way of sale or otherwise;
- (b) the ring or marking referred to in regulation 6(1) is removed or the identifying information on it or stored within it becomes unreadable;
- (c) the registered bird is kept by a person other than its registered keeper, unless it is intended at the time when the bird begins to be so kept that it will be returned to its registered keeper within the specified period and the bird is so returned, and in this sub-paragraph “the specified period” means—
 - (i) where the bird will not be kept continuously at its registered address, a period of three weeks; and
 - (ii) where the bird will be kept continuously at its registered address, a period of six weeks;
- (d) the registered bird is kept by its registered keeper but ceases to be kept at its registered address, unless—
 - (i) it is intended at the time when the bird ceases to be so kept that it will be returned to its registered address within three weeks and the bird is so returned; or
 - (ii) the Scottish Ministers are notified in writing before the bird ceases to be so kept of the new address at which it will be kept (being an address in Scotland) and the date from which it will be so kept.

(2) In this regulation—

“registered address” means the address at which the bird was kept at the date of registration by the Scottish Ministers, or, if an address has been notified to the Scottish Ministers under paragraph (1)(d)(ii), the address notified or last notified under that provision; and

“registered keeper” in relation to a registered bird means the person who made the application in respect of which the bird is registered by the Scottish Ministers.

Birds registered on CITES register

5.—(1) Where a bird of a species listed in the Schedule is registered on the CITES register, it is treated as being registered in accordance with these Regulations for the purposes of section 7(1) of the Act and—

- (a) regulation 3; and
- (b) paragraphs (1)(a)(iii), (c) and (d) of regulation 4,

do not apply in respect in birds registered by virtue of paragraph (1).

(a) Section 7(2A) was inserted by section 1(2) of the Birds (Registration Charges) Act 1997 (c.55).

(2) In this regulation—

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora(a);

“CITES certificate” means a certificate referred to in Article 10 of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein(b) issued by the management authority for the United Kingdom(c); and

“CITES register” means any register of birds in respect of which a CITES certificate has been issued.

Ringling

6.—(1) Every bird to which these Regulations apply must be ringed with a ring obtained from the Scottish Ministers unless it has been marked in accordance with the specimen marking requirements of Article 66 of Commission Regulation (EC) 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein(d).

(2) Any person who rings a bird under paragraph (1) must notify the Scottish Ministers.

Revocations

7. The following instruments are revoked:—

- (a) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982(e);
- (b) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1991(f); and
- (c) the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Amendment) Regulations 1994(g).

R CUNNINGHAM

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
24th November 2009

-
- (a) Signed at Washington D.C. on 3rd March 1973 and amended at Bonn on 22nd June 1979. The United Kingdom became a party to the Convention with effect from 31st October 1976. Regulation (EEC) No. 3626/82 (O.J. No. L 384, 31.12.1982, p.1) applied the Convention in the Community with effect from 1st January 1984.
 - (b) O.J. L 61, 3.3.1997, p.1. This Regulation was last amended by Regulation (EC) No. 398/2009 of the European Parliament and of the Council (O.J. L 126, 21.5.09, p.5).
 - (c) The Secretary of State for Environment, Food and Rural Affairs is the management authority for the United Kingdom having been designated under Article IX(1) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora to carry out that function and to grant permits or certificates on behalf of the United Kingdom pursuant to that convention.
 - (d) O.J. L 166, 19.6.2006, p.1. This Regulation was last amended by Commission Regulation (EC) No. 100/2008 (O.J. L 31, 5.2.2008, p.3).
 - (e) S.I. 1982/1221.
 - (f) S.I. 1991/478.
 - (g) S.I. 1994/1152.

SCHEDULE

Regulation 5

Birds to which regulation 5 applies

<i>Common name</i>	<i>Scientific name</i>
Merlin	Falco columbarius
Falcon, peregrine	Falco peregrinus

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, make provision for the registration and ringing or marking of the birds included in Schedule 4 to the Wildlife and Countryside Act 1981 (“the Act”) for the purposes of section 7(1) of the Act. Any person who keeps, or has possession of, or control over, one of these birds commits an offence under that subsection if it has not been registered and ringed or marked in accordance with these Regulations.

These Regulations revoke the Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982 (“the 1982 Regulations”) (and other instruments which amend the 1982 Regulations) (regulation 7).

Regulation 3 requires the Scottish Ministers to maintain a register of birds for the purposes of section 7(1) of the Act. It provides that they must not register a bird unless it has been ringed or marked in accordance with regulation 6(1), and that they may decline to do so where any administrative charge has not been paid.

Regulation 4 sets out the circumstances in which registration ceases to have effect.

Regulation 5 provides that, where a peregrine falcon or merlin has been registered on the register of birds in respect of which a certificate referred to in Article 10 of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by protecting trade therein (“the Council Regulation”) has been issued, it is treated as being registered for the purposes of these Regulations.

Regulation 6 requires that birds to which these Regulations apply be ringed, unless they have been marked in accordance with Article 66 of Commission Regulation (EC) No. 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein (“the Commission Regulation”).

Both the Council Regulation and the Commission Regulation implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

A full regulatory impact assessment has been produced for this instrument and a copy of it placed in the Scottish Parliament Information Centre. Further copies may be obtained from the Scottish Government Rural Directorate, Landscapes and Habitats Division, Victoria Quay, Edinburgh EH6 6QQ.

© Crown Copyright 2009

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen’s Printer for Scotland.

2009 No. 419

WILDLIFE

The Wildlife and Countryside (Registration and Ringing of
Certain Captive Birds) (Scotland) Regulations 2009