

Bats and the Law

A basic introduction



The legal protection of bats in the British Isles

Which legislation is relevant for bats?

All bat species and their roosts are legally protected in the UK. All bats are listed as European protected species of animals in the European Union's Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as the Habitats Directive. This Directive is implemented in the UK by the Conservation (Natural Habitats, &c.) Regulations 1994 (better known as the Habitats Regulations).

Amendments to the Habitats Regulations in each country by:

- The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 – in England and Wales
- The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007
- The Conservation (Natural Habitats, &c.) (Amendment) Regulations (Northern Ireland) 2007

mean that, for practical purposes, the protection of bats and their roosts now falls mostly under the Habitats Regulations in all four countries. Further amendments were made in each country in 2008/09. There is also some protection for bats and roosts in England and Wales under the Wildlife & Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

Isle of Man and the Channel Islands have their own legal systems. Bats and roosts are protected under the Wildlife Act 1990 (as amended) in the Isle of Man, and by the Conservation of Wildlife (Jersey) Law 2000 in Jersey, legislation covering the Bailiwick of Guernsey is under development.

How does the law protect bats?

The wording of the legislation varies slightly across the British Isles and is difficult to summarise succinctly, so you should refer to your country's relevant legislation for the precise wording. This leaflet cannot cover all the offences against bats/roosts, but in summary, it is an offence in the UK to:

- deliberately (or recklessly in Scotland) capture, injure or kill a bat
- deliberately (or recklessly in Scotland) disturb a bat in a way that would (significantly in Scotland) affect its ability to survive, breed or rear young (or hibernate or migrate in England, Wales and Northern Ireland) or (significantly in England, Wales and Scotland) affect the local distribution or abundance of the species.
- damage or destroy a roost (this is an 'absolute' offence)
- possess, control, transport, sell, exchange or offer for sale/exchange any live or dead bat or any part of a bat

In addition to the above:

In Scotland it is an offence to:

- deliberately or recklessly harass a bat, or disturb a bat at a roost
- deliberately or recklessly disturb a migrating or hibernating bat
- deliberately or recklessly obstruct access to a roost



In Northern Ireland it is an offence to:

- deliberately disturb a bat at a roost
- deliberately obstruct access to a roost

In England and Wales it is an offence under the Wildlife & Countryside Act 1981 (as amended) to:

- intentionally or recklessly disturb a bat at a roost
- intentionally or recklessly obstruct access to a roost

(‘Deliberately’ may be interpreted as someone who, although not intending to injure, kill, etc, performed the relevant action, being sufficiently informed and aware of the consequences their action will probably have.)



© Steve Parker

Brown long-eared bat

A person who needs to carry out actions that would result in an offence being committed should apply for a derogation licence from the relevant government department (Natural England, Countryside Council for Wales, Scottish Government, or Northern Ireland Environment Agency). They have powers to grant Habitats Regulations derogation licences in certain circumstances, for certain reasons and with certain terms attached, so that the licence holder remains within the law. Application for a derogation licence should be made in plenty of time, and the services of a bat expert utilised in making the application. It is an offence to make a false statement to obtain such a licence.

It is not illegal for someone to:

- capture a disabled bat solely for the purpose of tending it and releasing it when no longer disabled as long as the person can show that it was not disabled unlawfully by him/her*
- humanely kill a bat as long as that person can show the bat was so seriously disabled, other than by his/her own unlawful act, that there was no reasonable chance of it recovering

These defences only apply if there was no satisfactory alternative and the actions taken were not detrimental to maintenance of favourable conservation status of the species.

* A licence is needed for long-term captives.

Police and court powers

A police officer who suspects with reasonable cause that a person is committing – or has committed – an offence, can stop and search them, search or examine any relevant thing in their possession, and seize it. They can also enter land other than a dwelling house (dwelling or lockfast premises in Scotland) without a warrant, or enter and search a dwelling house with a warrant. Bat-related offences are arrestable.

The potential fine for each offence is £5,000 and, if more than one bat is involved, £5,000 per bat. An offender can also be imprisoned for six months. The forfeiture of any bat or other thing by the court is mandatory on conviction, and items used to commit the offence – vehicles, for example – may be forfeited.

Public bodies including local authorities

The Natural Environment and Rural Communities Act 2006 and Nature Conservation (Scotland) Act 2004 place a duty on public bodies to have regard to the requirements of biodiversity in carrying out their functions. In addition, local authority planning departments should also meet the requirements of Planning Policy Statement 9 (England), Technical Advice Note 5 (Wales), National Planning Policy Guidance 14 (Scotland) and Planning Policy Statement 2 (Northern Ireland).

This leaflet is not intended to answer specialist queries or problems and so you should refer to the relevant legislation for your country for detailed information. Further information on what to do when the law is broken, along with information on bats and their roosts, is available from the Bat Conservation Trust.



Common pipistrelle bat

© Hugh Clark

Contacts

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London SW8 4BG
Bat Helpline **0845 1300 228** www.bats.org.uk
email investigations@bats.org.uk

Statutory Nature Conservation Organisations (SNCOs):

Natural England
Telephone 0845 600 3078
www.naturalengland.org.uk

Countryside Council for Wales
Telephone 0845 1306 229
www.ccw.gov.uk

Scottish Natural Heritage
Telephone 01463 725000
www.snh.org.uk

Northern Ireland Environment Partnership Agency
Telephone 0845 302 0008
www.ni-environment.gov.uk

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