

**DRAFT CONSERVATION OF WILDLIFE (JERSEY) LAW 199**

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**Lodged au Greffe on 3rd November 1998  
by the Planning and Environment Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## Explanatory Note

The purpose of this draft Law is to consolidate and amend the law relating to the conservation of wildlife. It replaces the Wild Life (Protection) (Jersey) Law 1947 (“the 1947 Law”) and most of the Protection of Birds (Jersey) Law 1963 (“the 1963 Law”).

The Law is divided into four parts -

- Part I* makes provision for the interpretation of the Law and for its geographical application;
- Part II* contains provisions to further the conservation of wild animals and wild birds;
- Part III* contains provisions to further the conservation of protected plants;
- Part IV* contains miscellaneous and supplemental provisions, including a scheme for the issue of licences by the Planning and Environment Committee, making lawful acts which would otherwise be unlawful according to the draft Law.

### *Part I - Interpretation and Application*

*Article 1* contains interpretative provisions.

*Article 2* gives effect to the *First and Second Schedules* and provides the meaning of the terms “protected wild animal”, “protected wild bird” and “specially protected wild bird”.

The application of the provisions of the draft Law depends upon the following terms -

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|---------------|---|
| “wild animal” | meaning any animal other than a bird which is or, before being killed or taken, was living wild;                      |
| “wild bird”   | meaning any kind of bird ordinarily resident in or a visitor to the Island in a wild state, excluding birds of such a |

kind which are domestic fowl, geese, ducks, guinea fowl, pigeons, quails, swans and turkeys;

- “protected wild animal” meaning any animal of a species listed in *Part I* of the *First Schedule*; the list replaces and expands upon the list of species protected by the 1947 Law; the newly-protected species are bats, cetaceans, hedgehogs, seals, shrews, red squirrels, marine turtles and Jersey bank voles;
- “protected wild bird” meaning any wild bird, as defined above, other than carrion crows, house sparrows, magpies, starlings and wood pigeons; the definition broadly re-enacts the definition of wild birds protected under the 1963 Law;
- “specially protected wild bird” meaning any wild bird listed in the *Second Schedule*; generally, a greater penalty may be imposed for an offence committed in relation to a specially protected wild bird;
- “the ordinary penalty” means a fine not exceeding level 3 on the standard scale;
- “the special penalty” means a fine not exceeding level 4 on the standard scale and/or up to three months’ imprisonment.

*Article 3* empowers the Planning and Environment Committee to specify by Order plants which are to be “protected plants” and, accordingly, to which *Part III* will apply.

*Article 4* extends the application of the draft Law to the territorial waters of the Island.

*Part II - Wild animals and Wild birds*

*Article 5* makes it an offence to knowingly kill, injure or take a protected wild animal or protected wild bird. It replaces and expands upon Article 1 of the 1947 Law in respect of wild animals and replaces Articles 2 and 3 of the 1963 Law in respect of birds. There is an exception for a person acting with authority conferred under another enactment or by a licence. There is also an exception for a person taking animals or birds for the purpose of ringing or marking them, or examining any rings or marks on them, and then releasing them. A person will not be found guilty of taking a protected wild bird or protected wild animal if he satisfies the court that the bird or animal was disabled otherwise than by his own unlawful act, and that he took it for the purpose of tending it and releasing it when it had recovered. A person will not be found guilty of killing a protected wild bird or protected wild animal if he satisfies the court that the bird or animal was disabled otherwise than by his own unlawful act, and that there was no reasonable chance that it would recover. The penalty for an offence under this Article is the special penalty if the offence relates to a protected wild animal or to a specially protected wild bird, and the ordinary penalty if it relates to any other protected wild bird.

*Article 6* makes it an offence to knowingly damage or destroy, or obstruct access to the den of any protected wild animal or nest of any protected wild bird, or disturb any such animal occupying a den or such bird occupying a nest. It replaces Articles 2 and 3 of the 1963 Law in respect of birds and introduces new protection for animals. There are exceptions for a person acting with authority conferred by a licence, for an act which occurs as an accidental consequence of another act authorized by a licence and for anything done in a dwelling house in relation to a protected wild animal or its den. The penalty for an offence under this Article is the special penalty if the offence relates to a protected wild animal or to a specially protected wild bird and the ordinary penalty if it relates to any other protected wild bird.

*Article 7* makes it an offence to sell, offer for sale, possess for the purposes of sale or transport for the purposes of sale any protected wild animal or protected wild bird. It replaces Article 1 of the 1947 Law in respect of wild animals and Article 5 of the 1963 Law in respect of wild birds. It is immaterial whether the animal or bird is alive or dead, and the prohibition extends to parts and derivatives of such animals and

birds, including a blown egg of a bird. It is also made an offence to publish an advertisement indicating that a person buys or sells such things. There is an exception for a person acting with authority conferred by a licence. The penalty for an offence under this Article is the special penalty if the offence relates to a protected wild animal or to a specially protected wild bird, or the ordinary penalty if it relates to any other protected wild bird.

*Article 8* creates two offences relating to the keeping of wild animals and wild birds. *Paragraph (1)* makes it an offence to keep any live wild animal or live wild bird. There is an exception for any person acting with authority conferred by a licence and for any person keeping an animal or bird disabled otherwise than by his own unlawful act, for the purpose of tending it and releasing it when recovered. *Paragraph (3)* makes it an offence for a person to keep any dead protected wild animal or protected wild bird or any derivative of such an animal or bird. There are exceptions for a person acting with authority conferred by a licence and where the animal or bird was lawfully killed or taken. The penalty for an offence under this Article is the special penalty if the offence relates to a protected wild animal or specially protected wild bird, or any part of or thing derived from such an animal or bird, and the ordinary penalty in any other case.

*Article 9* replaces and expands upon Article 4 of the 1963 Law concerning prohibited methods of killing or taking wild birds. *Paragraph (1)* makes it an offence to set certain articles so as to harm any wild bird coming into contact with the article (*sub-paragraph (a)*) or to use certain methods for the purpose of killing or taking wild birds (*sub-paragraphs (b), (c) and (d)*). *Sub-paragraph (e) of paragraph (1)* also makes it an offence to knowingly cause or allow any such act. No offence is committed if a person is acting with authority of a licence (*paragraph (2)*). It is also a defence to a charge of setting an article so as to harm any wild bird coming into contact with it, or of causing or allowing such an article to be so set, to show that the article was set in the interests of public health, agriculture or conservation, for the purpose of killing a wild animal that could be lawfully killed by those means and that reasonable precautions were taken to prevent injury to wild birds (*paragraphs (3) and (4)*). The penalty for an offence is the special penalty. The Agriculture and Fisheries Committee is given power to make an Order, with the agreement of the Planning and

Environment Committee, varying the methods of killing to which the offences relate.

*Article 10* creates new offences relating to methods of killing or taking wild animals. *Paragraph (1)* applies in relation to all wild animals and makes it an offence to set a self-locking snare so as to cause harm to a wild animal coming into contact with it (*sub-paragraph (a)*) or to use specified methods for the purpose of killing or taking a wild animal (*sub-paragraphs (b) and (c)*). *Sub-paragraph (d) of paragraph (1)* also makes it an offence to cause or allow such an act. No offence is committed by a person acting with authority of a licence. *Paragraph (2)* applies only in relation to the wild animals listed in the *Third Schedule* and makes it an offence to set specified articles so as to cause harm to such an animal (*sub-paragraph (a)*) or to use certain methods for the purpose of killing or taking such an animal (*sub-paragraphs (b), (c) and (d)*). *Sub-paragraph (e) of paragraph (2)* also makes it an offence to cause or allow such an act. No offence is committed by a person acting with authority of a licence. It is also a defence to a charge of setting an article so as to harm an animal listed in the *Third Schedule* that comes into contact with it, or of causing or allowing such an article to be so set, to show that the article was set in the interests of public health, agriculture or conservation, for the purpose of killing a wild animal that could lawfully be killed by those means and that reasonable precautions were taken to prevent injury to wild animals listed in the *Third Schedule (paragraphs (4) and (5))*. The penalty for an offence under the Article is the special penalty. In any offence relating to the use of an article for the purpose of killing or taking an animal, there will be a presumption that the animal concerned was wild (*paragraph (7)*). The Agriculture and Fisheries Committee is given power to make an Order, with the agreement of the Planning and Environment Committee, varying the methods of killing to which the offences relate.

*Article 11* makes it an offence to export the reptiles and amphibians listed in the *Fourth Schedule*. It replaces the equivalent provision in Article 1 of the 1947 Law. There is an exception for a person acting with authority conferred by a licence. The penalty for an offence under this Article is the special penalty.

*Article 12* makes it an offence to show a wild bird for competition. There is an exception for a person acting with authority conferred by a licence. The penalty for an offence under this Article is the special

penalty where the offence relates to a specially protected wild bird, and the ordinary penalty in any other case.

### *Part III - Protected plants*

*Article 13* makes it an offence to knowingly pick, uproot, collect the seed of or destroy any protected plant. There is an exception for a person acting with authority conferred by a licence. It shall be a defence for a person to show that the act was an incidental result of a lawful operation and could not have been reasonably avoided. The penalty for an offence under this Article is the ordinary penalty.

*Article 14* makes it an offence to sell, offer for sale, possess for the purposes of sale or transport for the purposes of sale the whole or part of any protected plant or anything made from such a plant. It is also made an offence to publish an advertisement indicating that a person buys or sells such things. There is an exception for a person acting with authority conferred by a licence. The penalty for an offence under this Article is the ordinary penalty.

### *Part IV - Miscellaneous and supplemental*

*Article 15* makes it an offence to release into the wild or allow to escape any animal or bird which is not ordinarily resident in the Island in a wild state or which does not regularly migrate to the Island. It replaces Article 9 of the 1963 Law in relation to birds. It also makes it an offence to cause to grow in the wild any plant as may be prescribed by Order of the Planning and Environment Committee made with the agreement of the Agriculture and Fisheries Committee. It is a defence for a person to show that he did what he could to avoid committing the offence. If a person's defence rests upon the fact that the offence was committed through the act of another person, the defence cannot be relied upon unless, at least seven days before the hearing, the person relying on the defence has given information and assistance to the prosecution concerning the identity of the person whose act caused the offence. The penalty for an offence under this Article is an unlimited fine.

*Article 16* empowers the Planning and Environment Committee to grant licences authorizing any act which would otherwise be an offence under Parts II - IV of the Law. The Committee's power is limited to granting a licence for one or more of the purposes listed in paragraph (2). A

licence will be granted for a stated period of time, and may be made subject to conditions. A fee may be charged for the grant of a licence. The Committee will have power to modify or revoke a licence at any time.

*Article 17* makes it an offence liable to a fine not exceeding level 3 on the standard scale to make a false statement or supply a false document or information for the purpose of obtaining a licence.

*Article 18* enables a police officer or officer of the Agriculture and Fisheries Committee or the Planning and Environment Committee authorized for the purposes of the Law to apply to the Bailiff for a warrant enabling him to enter land and examine any animals, birds, plants or things for the purpose of investigating the suspected commission of an offence under the Law. The officer may seize and retain any animal or bird which he believes is being kept in contravention of the Law, and seize anything believed by him to have been used in connection with the commission of an offence under the Law.

*Article 19* makes it an offence to attempt to commit an offence under the Law or to possess anything capable of being used in the commission of an offence. Aiding and abetting the commission of an offence is also made an offence. The penalty for an offence under this Article will be the same as the penalty for the principal offence to which the offence relates.

*Article 20* provides that, where an offence is committed under the Law, the maximum fine which the court may impose shall be calculated as if a separate offence had been committed in respect of each animal, bird, plant or other thing to which the offence relates.

*Article 21* empowers the court to order forfeiture of any animal, bird, plant or other thing in respect of which a person is found guilty of an offence under the Law, and any vehicle, animal or thing used to commit the offence. If a person is found guilty of the offence of allowing imported species into the wild, the court may also order the forfeiture of any other specimens of the same species in that person's possession.

*Article 22* makes provision for the service of documents under the Law.



*Article 23* empowers the Planning and Environment Committee to amend the First to Fourth Schedules by Order.

*Articles 24, 25 and 26* make provision as to the making of Orders under the Law, the repeal of existing legislation and for the short title and commencement of the Law.

The *First Schedule* is divided into two Parts in which are contained the descriptions of protected wild animals and protected wild birds.

The *Second Schedule* contains a list of specially protected wild birds.

The *Third Schedule* is a list of animals which may not be killed or taken by certain methods.

The *Fourth Schedule* is a list of reptiles and amphibians which may not be exported without a licence.

The *Fifth Schedule* lists the enactments repealed by this Law.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, level 1 on the standard scale is £50, level 2 is £500, level 3 is £2,000 and level 4 is £5,000.

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ARRANGEMENT OF ARTICLES

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*PART I*

INTERPRETATION AND APPLICATION

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3. Protected plants
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*PART II*

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7. Prohibition of sale of protected wild animals and protected wild birds
8. Prohibition of keeping etc. of wild animals and wild birds
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15. Prohibition of release etc. of imported species
16. Power to grant licences
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18. Enforcement
19. Attempts to commit offences etc.
20. Calculation of fines
21. Forfeiture
22. Service of notices
23. Power to amend Schedules
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26. Short title and commencement

- FIRST SCHEDULE - Protected wild animals and protected wild birds
- SECOND SCHEDULE - Specially protected wild birds
- THIRD SCHEDULE - Animals which may not be killed or taken by certain methods
- FOURTH SCHEDULE - Reptiles and amphibians which may not be exported
- FIFTH SCHEDULE - Enactments repealed

**CONSERVATION OF WILDLIFE (JERSEY) LAW 199**

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**A LAW** to consolidate and amend the law relating to the conservation of wild animals, wild birds and wild plants in the Island, and for related purposes; sanctioned by Order of Her Majesty in Council of the

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*(Registered on the            day of            199 )*

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**STATES OF JERSEY**

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The            day of            199

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

*PART I*

INTERPRETATION AND APPLICATION

ARTICLE 1

**Interpretation**

(1) In this Law, unless the context requires otherwise -

“authorized officer” means an officer authorized by the Agriculture and Fisheries Committee or the Planning and Environment Committee for the purposes of this Law;

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

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“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching;

“licence” means a licence granted under paragraph (1) of Article 16;

“the ordinary penalty” means a fine not exceeding level 3 on the standard scale;

“poultry” means any fowls, geese, ducks, guinea fowls, pigeons, quails, swans and turkeys which are domestic;

“protected plant” means a plant prescribed under Article 3;

“protected wild animal”, “protected wild bird” and “specially protected wild bird” shall be construed in accordance with Article 2;

“sale” includes hire, barter and exchange;

“the special penalty” means a fine not exceeding level 4 on the standard scale or imprisonment for a term not exceeding three months, or both;

“uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;

“wild animal” means any animal other than a bird which is or, before it was killed or taken, was living wild;

“wild bird” means any bird of a kind which is ordinarily resident in or is a visitor to the Island in a wild state, but does not include poultry.

(2) In this Law, any reference to an animal or bird of any kind includes, unless the context requires otherwise, a reference to an egg, larva, pupa or other immature stage of an animal or bird of that kind.

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(3) In this Law, 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 shall not be taken into account.

(4) A reference in this Law to an Article or Schedule by number only, and without further identification, is a reference to the Article or Schedule of that number in this Law.

(5) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other division of this Law in which that reference occurs.

(6) Unless the context otherwise requires, where this Law refers to an enactment, the reference is a reference to that enactment as amended from time to time.

## ARTICLE 2

**Protected wild animals and protected wild birds**

(1) The wild animals described in Part I of the First Schedule are protected wild animals.

(2) The wild birds described in Part II of the First Schedule are protected wild birds.

(3) The wild birds described in the Second Schedule are specially protected wild birds.

## ARTICLE 3

**Protected plants**

(1) The Planning and Environment Committee may by Order prescribe plants which are to be protected.

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(2) A provision of an Order made under paragraph (1) may be expressed to have effect either generally or with respect to particular provisions of this Law, a particular area of the Island or particular times of year.

## ARTICLE 4

**Application**

This Law extends to the territorial sea adjacent to the Island.

*PART II*

## WILD ANIMALS AND WILD BIRDS

## ARTICLE 5

**Prohibition of killing etc. of protected wild animals and protected wild birds**

(1) Subject to paragraphs (2) and (3), it shall be an offence for any person knowingly to kill, injure or take any protected wild animal or protected wild bird or destroy or take the egg of a protected wild bird.

(2) Paragraph (1) does not apply to -

- (a) any person acting with authority of and in accordance with a licence;
- (b) any person taking any protected wild animal or protected wild bird for the purpose of ringing or marking it, or for the purpose of examining any ring or mark on it or some other animal or bird, and then releasing it;
- (c) any person authorized or directed to destroy any protected wild animal or protected wild bird by or under any other enactment.



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(3) A person shall not be found guilty of an offence under paragraph (1) by reason of -

(a) the taking of any disabled protected wild animal or disabled protected wild bird if he satisfies the court that the animal or bird -

(i) was not disabled by his unlawful act, and

(ii) was taken or to be taken solely for the purpose of tending it and releasing it when no longer disabled;

(b) the killing of any disabled protected wild animal or disabled protected wild bird if he satisfies the court -

(i) that the animal or bird was not disabled by his unlawful act, and

(ii) that there was no reasonable chance that it would recover;

(c) any act if he satisfies the court -

(i) that the act was the incidental result of a lawful operation, and

(ii) that the act could not reasonably have been avoided.

(4) A person shall not be entitled to rely on the defence provided by sub-paragraph (c) of paragraph (3) as respects anything done in relation to a bat, otherwise than in the living area of a dwelling-house, unless he has notified the Planning and Environment Committee of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

(5) A person guilty of an offence under paragraph (1) shall be liable to the special penalty where the offence relates to a protected wild

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animal or to a specially protected wild bird, and to the ordinary penalty if it relates to any other protected wild bird.

## ARTICLE 6

**Prohibitions relating to dens and nests etc. of protected wild animals and protected wild birds**

(1) Subject to paragraph (2), it shall be an offence for any person knowingly to -

- (a) damage or destroy the den of any protected wild animal while that den is in use;
- (b) take, damage or destroy the nest of any protected wild bird while that nest is in use or being built;
- (c) obstruct access to the den of any protected wild animal, or the nest of any protected wild bird, while that den or nest is in use; or
- (d) disturb any protected wild animal occupying a den or any protected wild bird occupying a nest.

(2) Paragraph (1) does not apply -

- (a) to any person acting with authority of and in accordance with a licence;
  - (b) to a person by reason of any act if he satisfies the court -
    - (i) that the act was the incidental result of a lawful operation, and
    - (ii) that the act could not reasonably have been avoided;
- or

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- (c) to anything done within a dwelling-house in relation to a protected wild animal or its den.

(3) For the purposes of this Article, a den or nest may be in use notwithstanding that it is, at the time of any act described in paragraph (1), unoccupied.

(4) A person guilty of an offence under paragraph (1) shall be liable to the special penalty where the offence relates to a protected wild animal or to a specially protected wild bird and to the ordinary penalty where it relates to any other protected wild bird.

ARTICLE 7

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

(1) Subject to paragraph (2), it shall be an offence for any person to -

- (a) sell, offer or expose for sale, or have in his possession, or transport, for the purposes of sale any protected wild animal or protected wild bird, whether living or dead or any part of or anything derived from such an animal or bird, including a blown egg of such a bird; or
- (b) publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.

(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) A person guilty of an offence under paragraph (1) shall be liable to the special penalty, where the offence relates to a protected wild animal or to a specially protected wild bird, and to the ordinary penalty where it relates to any other protected wild bird.

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## ARTICLE 8

**Prohibition of keeping etc. of wild animals and wild birds**

(1) Subject to paragraph (2), it shall be an offence for any person to keep or have in his control any live wild animal or live wild bird.

(2) Paragraph (1) does not apply to any person -

(a) acting with authority of and in accordance with a licence; or

(b) keeping or having in his control any animal or bird taken for the purpose described in sub-paragraph (a) of paragraph (3) of Article 5 and also kept or held by him for that purpose.

(3) Subject to paragraph (4), it shall be an offence for any person to keep or have in his control any dead protected wild animal or dead protected wild bird or any part of or anything derived from a protected wild animal or protected wild bird, including a blown egg of such a bird.

(4) Paragraph (3) does not apply to any person -

(a) acting with authority of and in accordance with a licence; or

(b) keeping or having in his control any 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 of such a bird, if the animal or bird was lawfully killed or taken.

(5) A person guilty of an offence under paragraph (1) or (3) shall be liable to the special penalty where the offence relates to a protected wild animal or specially protected wild bird, or any part of or

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thing derived from such an animal or bird, and to the ordinary penalty in any other case.

## ARTICLE 9

**Prohibition of certain methods of killing or taking wild birds**

(1) Subject to paragraphs (2) to (4), it shall be an offence for any person to -

- (a) set in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact with it, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening, or any poisonous, poisoned or stupefying substance;
- (b) use for the purpose of killing or taking any wild bird -
  - (i) any article mentioned in sub-paragraph (a), whether or not of such a nature and so placed as described in that sub-paragraph,
  - (ii) any net,
  - (iii) any baited board, bird-lime or substance of a like nature to bird-lime,
  - (iv) any bow or crossbow,
  - (v) any explosive other than ammunition for a firearm,
  - (vi) any automatic or semi-automatic weapon,
  - (vii) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches,

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- (viii) any device for illuminating a target or any sighting device for night shooting,
  - (ix) any form of artificial lighting or any mirror or other dazzling device,
  - (x) any gas or smoke not falling within sub-paragraph (a) or clause (i), or
  - (xi) any chemical wetting agent;
- (c) use as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live animal or bird whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured;
  - (d) use any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird; or
  - (e) knowingly cause or permit to be done an act mentioned in the foregoing sub-paragraphs.

(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) In any proceedings under sub-paragraph (a) of paragraph (1), it shall be a defence for a person to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

(4) In any proceedings under sub-paragraph (e) of paragraph (1) relating to an act mentioned in sub-paragraph (a) of paragraph (1), it shall be a defence for a person to show that the article was set in position for the purpose of killing or taking, in the interests of

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public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.

(5) A person guilty of an offence under paragraph (1) shall be liable to the special penalty.

(6) The Agriculture and Fisheries Committee, with the agreement of the Planning and Environment Committee, may by Order, either generally or in relation to any kind of wild bird specified in the Order, amend paragraph (1) by adding any method of killing or taking wild birds or by omitting any such method as is mentioned in that paragraph.

## ARTICLE 10

**Prohibition of certain methods of killing or taking wild animals**

(1) Subject to paragraph (3), it shall be an offence for any person to -

- (a) set in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact with it;
- (b) use for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as described in sub-paragraph (a), or any bow or crossbow or any explosive other than ammunition for a firearm;
- (c) use as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever; or
- (d) knowingly cause or permit to be done an act which is mentioned in the foregoing sub-paragraphs.

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- (2) Subject to paragraphs (3) to (5), it shall be an offence for any person to -
- (a) set in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in the Third Schedule which comes into contact with it, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
  - (b) use for the purpose of killing or taking any wild animal included in the Third Schedule -
    - (i) any article mentioned in sub-paragraph (a), whether or not of such a nature and so placed as described in that sub-paragraph;
    - (ii) any net;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any device for illuminating a target or sighting device for night shooting;
    - (v) any form of artificial lighting or any mirror or other dazzling device; or
    - (vi) any gas or smoke not falling within sub-paragraph (a) or clause (i);
  - (c) use as a decoy, for the purpose of killing or taking any wild animal included in the Third Schedule, any sound recording;
  - (d) use any mechanically propelled vehicle in immediate pursuit of any wild animal included in the Third Schedule for the purpose of driving, killing or taking it; or



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(e) knowingly cause or permit to be done an act which is mentioned in the foregoing sub-paragraphs.

(3) Paragraphs (1) and (2) do not apply to any person acting with authority of and in accordance with a licence.

(4) In any proceedings under sub-paragraph (a) of paragraph (2), it shall be a defence for a person to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to animals included in the Third Schedule.

(5) In any proceedings under sub-paragraph (e) of paragraph (2) relating to an act which is mentioned in sub-paragraph (a) of paragraph (2), it shall be a defence for a person to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to animals included in the Third Schedule.

(6) A person guilty of an offence under paragraph (1) or (2) shall be liable to the special penalty.

(7) In any proceedings -

(a) for an offence under sub-paragraph (b) or (c) of paragraph (1) or under sub-paragraph (b), (c) or (d) of paragraph (2); or

(b) for an offence under sub-paragraph (d) of paragraph (1) or sub-paragraph (e) of paragraph (2) relating to an act mentioned in any provision referred to in sub-paragraph (a) of this paragraph,

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the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(8) The Agriculture and Fisheries Committee, with the agreement of the Planning and Environment Committee, may by Order, either generally or in relation to any kind of wild animal specified in the Order, amend paragraphs (1) and (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in those paragraphs.

## ARTICLE 11

**Prohibition of export of certain reptiles and amphibians**

(1) Subject to paragraph (2), it shall be an offence for any person to export from the Island any reptile or amphibian mentioned in the Fourth Schedule.

(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) A person guilty of an offence under paragraph (1) shall be liable to the special penalty.

## ARTICLE 12

**Prohibition on showing wild birds for competition**

(1) Subject to paragraph (2), it shall be an offence for any person to show or cause or permit to be shown for the purposes of competition, or in any premises in which a competition is being held, any wild bird.

(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) A person guilty of an offence under paragraph (1) shall be liable to the special penalty where the offence relates to a specially protected wild bird, and to the ordinary penalty in any other case.

*Conservation of Wildlife (Jersey) Law 199**PART III*

## PROTECTED PLANTS

## ARTICLE 13

**Prohibition of picking etc. of protected plants**

(1) Subject to paragraphs (2) and (3), it shall be an offence for any person to knowingly pick, uproot, collect the seed of or destroy any protected plant.

(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) A person shall not be guilty of an offence under paragraph (1) if he shows that the picking, uprooting, collecting or destroying was an incidental result of a lawful operation and could not reasonably have been avoided.

(4) A person guilty of an offence under paragraph (1) shall be liable to the ordinary penalty.

## ARTICLE 14

**Prohibition of sale of protected plants**

(1) Subject to paragraph (2), it shall be an offence for any person to -

- (a) sell, offer or expose for sale, or have in his possession, or transport, for the purposes of sale any protected plant, any part of such a plant, or anything made wholly or partly from such a plant; or
- (b) publish or cause to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of these things.

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(2) Paragraph (1) does not apply to any person acting with authority of and in accordance with a licence.

(3) A person guilty of an offence under paragraph (1) shall be liable to the ordinary penalty.

*PART IV*

## MISCELLANEOUS AND SUPPLEMENTAL

## ARTICLE 15

**Prohibition of release etc. of imported species**

(1) Subject to paragraph (4), it shall be an offence for any person to release or allow to escape into the wild any animal or bird which is of a kind which is not ordinarily resident in or a regular visitor to the Island in a wild state.

(2) Subject to paragraph (4), it shall be an offence for any person to plant or otherwise cause to grow in the wild any prescribed plant.

(3) Paragraph (1) or (2) does not apply to any person acting with authority of and in accordance with a licence.

(4) Subject to paragraph (5), it shall be a defence to a charge of committing an offence under paragraph (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) Where the defence provided by paragraph (4) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

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(6) The Planning and Environment Committee, with the agreement of the Agriculture and Fisheries Committee, may by Order prescribe plants for the purposes of paragraph (2).

(7) A person guilty of an offence under paragraph (1) or (2) shall be liable to a fine.

## ARTICLE 16

**Power to grant licences**

(1) Subject to paragraphs (2) and (4), the Planning and Environment Committee may grant a licence authorizing any person to do anything which would otherwise constitute an offence under any provision of Parts II - IV.

(2) The Planning and Environment Committee may only grant a licence if the thing to be authorized will be done -

- (a) for scientific, research or educational purposes;
- (b) for the purpose of attaching any identifying or tracking device to any wild bird, or examining any such device;
- (c) for the purpose of preserving public health or public or air safety;
- (d) for the purpose of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for that purpose;
- (e) for the purpose of conserving flora or fauna;
- (f) for the purpose of preventing the spread of disease;
- (g) for the purpose of protecting any zoological or botanical collection; or

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- (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries.

(3) Subject to paragraph (4), a licence shall be granted for the period stated in it, and may be -

- (a) general or specific;
- (b) granted either to persons of a class or to a particular person;
- (c) subject to compliance with any specified conditions;
- (d) modified or revoked by the Planning and Environment Committee at any time.

(4) A licence which authorizes any person to kill protected wild animals or protected wild birds shall specify the area within which and the methods by which such animals or birds may be killed.

(5) The Planning and Environment Committee may charge a fee for the grant of a licence.

## ARTICLE 17

**False statements made for obtaining licence**

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

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shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

## ARTICLE 18

**Enforcement**

(1) If a police officer or an authorized officer suspects with reasonable cause that any person is committing or has committed an offence under this Law he may apply to the Bailiff for a warrant.

(2) If the Bailiff is satisfied as to the grounds for suspecting that an offence under this Law is being or has been committed, he may issue a warrant authorizing any one or more police officers or authorized officers to -

- (a) enter at any time, by force if necessary, any land where the offence appears to be taking or to have taken place;
- (b) examine any animal or bird found there and any place where it is kept, roosts or nests;
- (c) examine any plant found there; and
- (d) examine anything which may be used in connection with the commission of an offence under this Law.

(3) A police officer or an authorized officer may seize and hold in a place of safe custody any animal or bird which he has reasonable cause to suspect is in the possession or control of any person in contravention of this Law.

(4) A police officer or an authorized officer may seize and detain anything which he has reasonable cause to suspect is being or has been used in connection with the commission of an offence under this Law.

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(5) Any person who intentionally obstructs a police officer or authorized officer in the exercise of any powers conferred by or under this Article shall be guilty of an offence and liable to a fine.

## ARTICLE 19

**Attempts to commit offences etc.**

(1) Any person who attempts to commit an offence under this Law shall be guilty of an offence and liable to be punished in like manner as for the said offence.

(2) Any person who, for the purpose of committing an offence under this Law, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in the like manner as for the said offence.

(3) Any person who knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Law shall be liable to be dealt with, tried and punished as a principal offender.

## ARTICLE 20

**Calculation of fines**

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

## ARTICLE 21

**Forfeiture**

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



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- (a) shall 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 15, 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.

## ARTICLE 22

**Service of notices**

(1) This Article shall have effect in relation to any notice or other document required or authorized 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 him;
- (b) by leaving at his proper address; or
- (c) by sending it by post to him 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

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- (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 12 of the Interpretation (Jersey) Law 1954<sup>1</sup> (Meaning of service by post) in its application to this Article, the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that -

- (a) in the case of a company or its secretary, clerk or other officer or person referred to in sub-paragraph (a) of paragraph (3), it shall be 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, it shall be that of the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the Island or of a partnership carrying on business outside the Island shall be their principal office within the Island.

(5) If the person to be given or served with any document mentioned in paragraph (1) has specified an address within the Island other than his proper address within the meaning of paragraph (4) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this Article and Article 12 of the Interpretation (Jersey) Law 1954<sup>1</sup> as his proper address.

## ARTICLE 23

**Power to amend Schedules**

(1) The Planning and Environment Committee may by Order amend the First, Second, Third and Fourth Schedules.

<sup>1</sup> Tome VIII, page 381.

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(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 the Island or particular times of the year.

## ARTICLE 24

**Orders**

The Subordinate Legislation (Jersey) Law 1960<sup>2</sup> shall apply to Orders made under this Law.

## ARTICLE 25

**Repeals**

The enactments specified in column 1 of the Fifth Schedule are repealed to the extent specified in column 2 of that Schedule.

## ARTICLE 26

**Short title and commencement**

(1) This Law may be cited as the Conservation of Wildlife (Jersey) Law 199 .

(2) This Law shall come into force on such day or days as the States may by Act appoint, and different days may be appointed for different provisions.

<sup>2</sup> Tome VIII, page 849.

*Conservation of Wildlife (Jersey) Law 199**FIRST SCHEDULE***(Article 2)**

## PROTECTED WILD ANIMALS AND PROTECTED WILD BIRDS

## PART I

**(Article 2(1))****Protected wild animals**

<i>Common Name</i>	<i>Scientific Name</i>
Bats, horseshoe (all species)	Rhinolophidae
Bats, typical (all species)	Vespertilionidae
Dolphins (all species)	Cetacea
Frog, agile	Rana dalmatina
Hedgehog	Erinaceus europaeus
Lizard, green	Lacerta viridis
Lizard, wall	Podarcis muralis
Newt, palmate	Triturus helveticus
Porpoises (all species)	Cetacea
Seals (all species)	Pennipedia
Shrew, common or French	Sorex coronatus
Shrew, lesser white-toothed	Crocidura suaveolens
Slow worm	Anguis fragilis

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<i>Common Name</i>	<i>Scientific Name</i>
Snake, grass	Natrix natrix
Squirrel, red	Sciurus vulgaris
Toad, common	Bufo bufo
Turtles, marine (all species)	Cheloniidae and Dermochelyidae
Vole, Jersey bank	Clethrionomys glareolus ssp. caesarius
Whales (all species)	Cetacea

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## PART II

## (Article 2(2))

**Protected wild birds**

All wild birds except the following species -

<i>Common Name</i>	<i>Scientific Name</i>
Crow, carrion	Corvus corone
Magpie	Pica pica
Pigeon, wood	Columba palumbus
Sparrow, house	Passer domesticus
Starling	Sturnus vulgaris

*Conservation of Wildlife (Jersey) Law 199**SECOND SCHEDULE*

(Article 2(3))

**Specially protected wild birds**

<i>Common Name</i>	<i>Scientific Name</i>
Bunting, ciril	<i>Emberiza cirilus</i>
Kingfisher	<i>Alcedo atthis</i>
Owl, barn	<i>Tyto alba</i>
Peregrine	<i>Falco peregrinus</i>
Plover, Kentish	<i>Charadrius alexandrinus</i>
Serin	<i>Serinus serinus</i>
Sparrowhawk	<i>Accipiter nisus</i>
Tit, bearded	<i>Panurus biarmicus</i>
Warbler, Cetti's	<i>Cettia cetti</i>
Warbler, Dartford	<i>Sylvia undata</i>

*Conservation of Wildlife (Jersey) Law 199**THIRD SCHEDULE***(Article 10)****Animals which may not be killed or taken by certain methods**

<i>Common Name</i>	<i>Scientific Name</i>
Bats, horseshoe (all species)	Rhinolophidae
Bats, typical (all species)	Vespertilionidae
Dolphins (all species)	Cetacea
Frog, agile	Rana dalmatina
Hedgehog	Erinaceus europaeus
Lizard, green	Lacerta viridis
Lizard, wall	Podarcis muralis
Shrew, common or French	Sorex coronatus
Shrew, lesser white-toothed	Crocidura suaveolens
Squirrel, red	Sciurus vulgaris
Vole, Jersey bank	Clethrionomys glareolus ssp. caesarius



*Conservation of Wildlife (Jersey) Law 199**FOURTH SCHEDULE***(Article 11(1))****Reptiles and amphibians which may not be exported**

<i>Common Name</i>	<i>Scientific Name</i>
Frog, agile	<i>Rana dalmatina</i>
Lizard, green	<i>Lacerta viridis</i>
Lizard, wall	<i>Podarcis muralis</i>
Newt, palmate	<i>Triturus helveticus</i>
Slow worm	<i>Anguis fragilis</i>
Snake, grass	<i>Natrix natrix</i>
Toad, common	<i>Bufo bufo</i>

*Conservation of Wildlife (Jersey) Law 199**FIFTH SCHEDULE***(Article 25)****Enactments repealed<sup>3</sup>**

<i>Column 1</i>	<i>Column 2</i>
Wild Life (Protection) (Jersey) Law 1947	The whole Law.
Protection of Birds (Jersey) Law 1963	Articles 1(2), 2, 3, 4, 5, 6, 8, 9 and 10.

<sup>3</sup> Tome VII, page 384, and Volume 1963-1965, pages 118, 119, 121, 122 and 123.