

Legal

Slings and arrows

by Jonathan Manser, Associate, Knights Solicitors.



NAVIGATING THE LAW REGARDING THE LEGAL methods of killing or capturing wild mammals and birds can be like walking through a minefield – landmines being an example of an illegal method. However, there are lots of other illegal methods which are not so obvious, and the

consequences of not complying with the law can be severe for gamekeepers.

The main list of prohibited methods is set out in the Wildlife & Countryside Act 1981, which is summarised in Tables 1, 2 and 3. The laws are different for birds and mammals, and they also vary slightly

depending on if you are in England and Wales or in Scotland.

It is an offence to keep or confine any bird in a cage or other receptacle that is not large enough to allow the bird to spread its wings freely. Therefore, a cage or trap that is too small for a captured bird is illegal.

TABLE 1

KILLING OR TAKING BIRDS IN ENGLAND, WALES AND SCOTLAND

DEVICE

Any spring, trap, gin, snare, hook and line, electric device for killing or stunning or frightening, or any poisonous, poisoned or stupefying substance.

Any net, baited board, bird-lime or substance like bird-lime.

Any bow, crossbow, explosive (other than ammunition for a firearm), any automatic or semi-automatic weapon, any shotgun with a barrel diameter at the muzzle of more than one and three-quarter inches, any illuminating device or sighting device for night shooting, any artificial lighting or mirror or dazzling device, any gas or smoke or any wetting agent.

As a decoy any sound recording or any live bird or other animal which is tethered or secured by means of braces or similar appliance, or which is blind, maimed or injured.

A mechanically propelled vehicle in immediate pursuit of a wild bird.

CIRCUMSTANCE IN WHICH PROHIBITED

Illegal if so placed as to be calculated to cause bodily injury to any wild bird – in Scotland illegal if so placed as to be likely to cause bodily injury to any wild bird.*

Illegal if for the purpose of killing or taking any wild bird.

Illegal in any event.

Illegal in any event.

Illegal if for the purpose of killing that bird.

* The term 'calculated' is not defined in the Act. However, the Crown Prosecution Service considers this to mean the foreseeable likelihood of causing bodily injury. Therefore, although the phrasing between the law in England and Wales and Scotland differ, the effect will be the same.

TABLE 2

KILLING OR TAKING ANIMALS IN ENGLAND & WALES ONLY

DEVICE

Any self-locking snare.

Any self-locking snare, bow or crossbow or explosive other than ammunition for a firearm.

As a decoy any live animal or bird.

Any net.

Any automatic or semi-automatic weapon, any illuminating device or sighting device for night shooting, any form of artificial light or any mirror or dazzling device, or any gas or smoke.

As a decoy any sound recording.

Any mechanically propelled vehicle in immediate pursuit of any Section 6 wild animal.

CIRCUMSTANCE IN WHICH PROHIBITED

Illegal if of such nature and so placed as to be calculated to cause bodily injury to any wild animal.

Illegal if for the purpose of killing or taking any wild animal. It is also illegal to fail to inspect any snare at least once every day.

Illegal if for the purpose of killing or taking any wild animal.

Illegal if for the purpose of killing or taking any Section 6 wild animal.

Illegal if for the purpose of killing or taking any Section 6 wild animal.

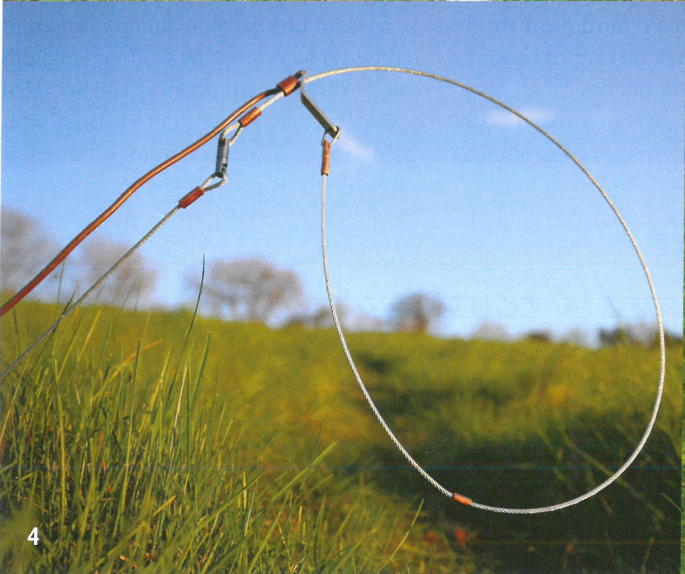
Illegal if for the purpose of killing or taking any Section 6 wild animal.

Illegal if for the purpose of driving, killing or taking that animal.

SOPHIA GALLA



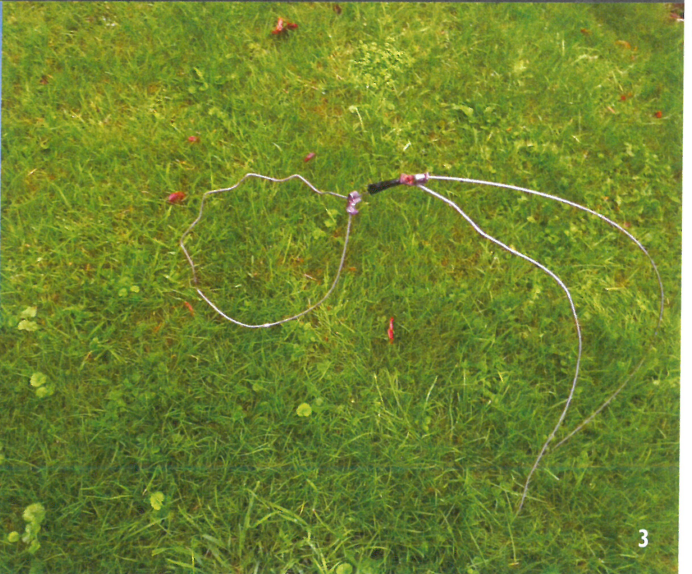
DAVID ROLFE



RICHARD COATES



NGO



Clockwise from top left: 1. A properly designed and set Larsen trap was – until 25 April 2019 – legal under a General Licence in England if operating within the conditions of the licence. We are fighting for restoration of workable General Licences – see the NGO website for the latest situation; 2. This DOC trap is set so that non-target animals are excluded and target animals are killed quickly and cleanly; 3. This snare is self-locking and is illegal in all circumstances; 4. This snare is legal and code-compliant – the law takes a dim view of anyone operating outside the code.

There is a separate offence of knowingly causing or permitting to be done anything set out above. Thus a head keeper or estate manager could be prosecuted for the acts or omissions of a gamekeeper working under them.

The Government issues General Licences from time to time which permit some of the methods above in certain circumstances. Those General Licences set out restrictions on when those traps may or may not be used, and commonly apply to gamebirds and animals during hunting seasons.

It is assumed that the 25 April rescissions in England will be largely restored later this year, but as from 25 April if a Section 6 animal or protected wild bird is inadvertently captured or killed by a device that is legal for

capturing or killing an unprotected wild animal or bird, it will be a defence to show that the device was set in a position for killing or taking the unprotected bird or animal, and that all reasonable precautions were taken to prevent injury to the protected species.

Although the deployment of poisons, snares and traps against animals not included in Section 6 is not prohibited entirely, it is heavily circumscribed by other legislation. For example, the Pests Act 1954 makes it an offence to use any spring trap other than one that is approved by a General Order, or to use an approved trap in circumstances for which it is not approved (eg. using a Fenn trap placed on a pole to catch birds of prey). This does not apply to any traps adapted

solely for the destruction of rats, mice or other small ground vermin. Further, the Protection of Animals Act 1911 places a duty to inspect a trap set to capture rabbits or hares at least once a day.

Some chemicals are banned under the Food & Environmental Protection Act 1985 and, since 1 January 2018, only pest controllers who have a certificate showing they have attended a relevant, certified rat bait course (such as those run by the NGO) are permitted to use rodenticides in outdoor spaces. It is also illegal to use pulsed baiting techniques or permanent baiting systems.

There are special prohibitions in relation to killing deer under the Deer

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Act 1991, which includes the use of smooth-bore guns, rifles with a calibre of less than .240 inches or muzzle energy of less than 1,700 joules (1,254 ft-lb), air guns, any bullets other than soft-nosed or hollow-nosed bullets, arrows or spears, poisons, drugs or muscle relaxants or firearms shot from a moving vehicle (including stationary vehicles when the engine is running).

Under the Protection of Badgers Act 1992, badgers may only be killed in very limited circumstances, and in most cases a licence is needed. If a badger can be lawfully killed (ie. if you have obtained a licence), then the only legal way of doing so is with a smooth-bore weapon of not less than 20-bore or a rifle using ammunition having a muzzle energy of not less than 217 joules (160 ft-lb) and a bullet weighing not less than 38 grains.

NOTE IT!**KNIGHTS SOLICITORS**

Jonathan Manser is an Associate with Knights Solicitors. He has been involved with the operation of the NGO's Legal Helpline since 2013 and has been primarily responsible for it since 2017. Knights Solicitors is a specialist litigation practice well-known for representing clients with animal and countryside interests on a national level. The company provides the NGO with a legal helpline service (see below). Tel: 01892 537311, www.knights-solicitors.co.uk. Ask for Matthew Knight, Richard Atkins or Jonathan Manser.

NGO FREE LEGAL HELPLINE

NGO members in need of emergency legal advice relating to gamekeeping and field sports can call the helplines below. Up to 30 minutes telephone advice is available free of charge as a benefit of your NGO membership.

For those in the South: Matthew Knight, Richard Atkins and Jonathan Manser, Knights Solicitors (Tunbridge Wells), 01892 537311 (24hr line).

For those in the North, Scotland and Wales: Michael Kenyon, Solicitor (Macclesfield), 01625 422275 or 07798 636460.



SOPHIA GALLIA

TABLE 3**KILLING OR TAKING ANIMALS IN SCOTLAND ONLY**

DEVICE	CIRCUMSTANCE IN WHICH PROHIBITED
Any self-locking snare or any other snare specified in an order made by the Scottish Ministers.	Illegal in any event. It is also illegal to have any such snare in your possession without reasonable excuse, or to sell, offer or expose for sale any such snare.
Any other snare.	Illegal if of such nature or so placed as to be calculated to cause unnecessary suffering to any animal. If the snare is used to catch any animal other than a fox this will include a snare not fitted with a stop which prevents the noose reducing in circumference to less than 13cm or, if the snare is used to catch a fox, a snare not fitted with a stop preventing the noose reducing to less than 23cm. A snare will also be illegal if it is not staked to the ground or attached to an object in a manner which will prevent the snare being dragged, or if the snare is set in a place where an animal is likely to be suspended (fully or partially) or drown.
Any bow, crossbow or explosive other than ammunition for a firearm.	Illegal if for the purpose of killing or taking any animal.
As a decoy any live mammal or bird.	Illegal if for the purpose of killing or taking any wild animal.
Any trap or snare, electrical device for killing or stunning or any poisonous, poisoned or stupefying substance.	Illegal if of such nature and so placed as to be likely to cause bodily injury to any wild animal included in Section 6. NB: if the device is used for killing or taking a Section 6 wild animal then it will be illegal in any event as Section 6 wild animals have protection from being killed or captured (unless under special licence).
Any net.	Illegal if for the purpose of killing or taking any Section 6 wild animal.
Any automatic or semi-automatic weapon, any illuminating device or sighting device for night shooting, any form of artificial light or any mirror or dazzling device, or any gas or smoke.	Illegal if for the purpose of killing or taking any Section 6 wild animal.
As a decoy any sound recording.	Illegal if for the purpose of killing or taking any Section 6 wild animal.
Any mechanically propelled vehicle in immediate pursuit of any Section 6 wild animal.	Illegal if for the purpose of driving, killing or taking that animal.