

2013 No. 31

WILDLIFE

The Wildlife and Countryside Act 1981 (Variation of Schedules A1 and 1A) (Scotland) Order 2013

Made - - - - *4th February 2013*

Laid before the Scottish Parliament *6th February 2013*

Coming into force - - *16th March 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 22(1)(a) of the Wildlife and Countryside Act 1981(a) and all other powers enabling them to do so.

In accordance with section 22(2A)(b) of that Act, they have consulted Scottish Natural Heritage.

In accordance with section 26(4)(a)(c) of that Act, they have given any local authority affected and any other person affected an opportunity to submit objections or representations with respect to the subject matter of this Order.

Citation, commencement and extent

1.—(1) This Order may be cited as the Wildlife and Countryside Act 1981 (Variation of Schedules A1 and 1A) (Scotland) Order 2013 and comes into force on 16th March 2013.

(2) This Order extends to Scotland only.

Variation of Schedule A1

2. In Schedule A1(d) to the Wildlife and Countryside Act 1981 (protected nests and nest sites: birds), the following entry is inserted as the first entry—

Common name	Scientific name
Eagle, Golden	<i>Aquila chrysaetos</i>

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- (a) 1981 c.69. Section 22(1) was relevantly amended by paragraph 20(a) of schedule 6 to the Nature Conservation (Scotland) Act 2004 (asp 6) (“the 2004 Act”). The functions of the Secretary of State under section 22(1) were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (b) Section 22(2A) was inserted by paragraph 20(b) of schedule 6 to the 2004 Act.
- (c) Section 26(4)(a) was amended by sections 4(5) and 17(6) of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6).
- (d) Schedule A1 was inserted by paragraph 24 of schedule 6 to the 2004 Act.

Variation of Schedule 1A

3. In Schedule 1A(a) to the Wildlife and Countryside Act 1981 (birds which are protected from harassment), each of the following entries is inserted at the appropriate alphabetical place—

Common name	Scientific name
Eagle, Golden	<i>Aquila chrysaetos</i>
Harrier, Hen	<i>Circus cyaneus</i>
Kite, Red	<i>Milvus milvus</i>

PAUL WHEELHOUSE

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
4th February 2013

(a) Schedule 1A was inserted by paragraph 25 of schedule 6 to the 2004 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 22(1)(a) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) provides for the variation of Schedules A1 and 1A to that Act by order.

Article 2 of this Order adds the golden eagle to Schedule A1 to the 1981 Act, which currently includes only the white-tailed eagle.

In accordance with section 1(1)(ba) of that Act, it is an offence for any person intentionally or recklessly to take, damage, destroy or otherwise interfere with any nest habitually used by any wild bird included in that Schedule, at any time other than while the nest is in use or being built. In contrast, section 1(1)(b) provides that it is an offence intentionally or recklessly to take, damage, destroy or otherwise interfere with the nest of any wild bird while that nest is in use or being built.

Article 3 of this Order adds the birds listed in that article to Schedule 1A to the 1981 Act, which currently includes only the white-tailed eagle. Section 1(5B) of that Act provides that it is an offence for any person intentionally or recklessly to harass any wild bird included in that Schedule.

No business regulatory impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.

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