WELSH STATUTORY INSTRUMENTS

2002 No. 1730 (W.164)

ENVIRONMENTAL PROTECTION, WALES

The Environmental Protection (Restriction on Use of Lead Shot) (Wales) Regulations 2002

Made - - - -	*4th July 2002*
Coming into force - -	*1 September 2002*

The National Assembly for Wales:

i) having consulted the committee established(**1**) under section 140(5) of the Environmental Protection Act 1990(**2**);

ii) having published a notice in the London Gazette as required by section 140(6)(b) of that Act;

iii) having considered the representations made in accordance with that notice;

considers it appropriate to make these Regulations for the purpose of preventing the substances or articles specified in them from causing pollution of the environment and harm to the health of animals and therefore, in exercise of the powers conferred by section 140 of the Environmental Protection Act 1990(**3**), hereby makes the following Regulations:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Environmental Protection (Restriction on Use of Lead Shot) (Wales) Regulations 2002 and come into force on 1 September 2002.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations—

"the 2001 Regulations" (*Rheoliadau 2001*) means the Environmental Protection (Restriction on Use of Lead Shot) (Wales) Regulations 2001(**4**);

"authorised person" ("person awdurdodedig") means a person authorised under regulation 4(1) below;

(**1**) S.I. 1991/1487.
(**2**) 1990 c. 43.
(**3**) These powers, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999 / 672).
(**4**) S.I. 2001 / 4003 (W.331).

"lead shot" ("*peledi plwm*") means any shot made of—

(a) lead, or

(b) any alloy or compound of lead if lead comprises more than 1% of that alloy or compound;

"premises" ("*safle*") includes any land, vehicle or vessel, but does not include premises used for residential purposes;

"shot gun" ("*gwn cetrys*") means a smooth-bore gun but does not include any shot-gun chambered for 9 millimetre or smaller rim-fire cartridges;

"site of special scientific interest" ("*safle o ddiddordeb gwyddonol arbennig*") means an area of land notified under section 28(1) of the Wildlife and Countryside Act 1981(**5**);

"wild bird" ("*aderyn gwyllt*") means any bird of a kind which is ordinarily resident in, or is a visitor to, Wales in a wild state.

Prohibition on use of cartridges containing lead shot

3. No person shall use lead shot for the purpose of shooting with a shot gun—

(a) on or over any area below high-water mark of ordinary spring tides;

(b) on or over any site of special scientific interest included in Schedule 1 to these Regulations; or

(c) any wild bird included in Schedule 2 to these Regulations.

Powers of entry to determine whether any provisions of the Regulations have been broken

4.—(1) A person who appears suitable to the National Assembly may be authorised in writing by the National Assembly to exercise, in accordance with the terms of the authorisation, any of the powers specified in paragraph (2) below for the purpose of determining whether any provisions of these Regulations have been broken.

(2) The powers which an authorised person may be authorised to exercise under paragraph (1) above are—

(a) to enter at any reasonable time any premises which the authorised person has reason to believe it is necessary to enter;

(b) on entering any premises by virtue of sub-paragraph (a) above to have with him or her—

(i) any other authorised person;

(ii) if there is reasonable cause to apprehend any serious obstruction which would interfere with the authorised person in the execution of his or her duty, a constable; and

(iii) any equipment (other than heavy equipment) or materials required for any purpose for which the power of entry is being exercised;

(c) to make such examination and investigation as may in the circumstances be necessary;

(d) to take any dead or injured wild bird or to take samples, or to cause samples to be taken, of any articles or substances found in or on any premises which the authorised person has power to enter and to cause any such bird or sample to be analysed or tested;

(e) in the case of any such bird or sample as is mentioned in sub-paragraph (d) above, to take possession of it and to retain it for so long as is necessary for all or any of the following purposes, namely—

(**5**) 1981 c. 69.

(i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which the authorised person has power to do under that sub-paragraph;

(ii) to ensure that it is not tampered with before examination of it is completed;

(iii) to ensure that it is available for use as evidence in any proceedings for an offence.

(3) Where an authorised person proposes to enter any premises and—

(a) entry has been refused and the authorised person apprehends on reasonable grounds that the use of force may be necessary to effect entry; or

(b) the authorised person apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of these regulations shall only be effected under the authority of a warrant by virtue of paragraph (4) below.

(4) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for the exercise, in relation to any premises, of a power under this regulation (including a power exercisable by virtue of a warrant under this paragraph), and

(b) that one or more of the conditions specified in paragraph (5) below is fulfilled,

the justice may by warrant authorise the National Assembly to designate a person who shall be authorised to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

(5) The conditions mentioned in sub-paragraph (4)(b) above are—

(a) that the exercise of the power in relation to the premises has been refused;

(b) that such a refusal is reasonably apprehended;

(c) that the premises are unoccupied;

(d) that the occupier is temporarily absent from the premises and the case is one of urgency; or

(e) that an application for admission to the premises would defeat the object of the proposed entry.

(6) Every warrant under paragraph (4) above shall continue in force until the purposes for which the warrant was issued have been fulfilled.

(7) An authorised person, or a person designated under paragraph (4) above, shall, (if so requested), produce evidence of the authority or designation.

(8) An authorised person, or a person designated under paragraph (4) above, who, in exercise of any power conferred by this regulation, enters on any premises which are unoccupied or whose occupier is temporarily absent, shall leave the premises secured against trespassers as effectively as before that person entered.

(9) An authorised person, or a person designated under paragraph (4) above, shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any power conferred by this regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences

5.—(1) Any person who contravenes regulation 3 above or causes or permits another person to contravene that regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.