

## Appendix 9.2 – Summary of Species (Fauna) Protection and Legislation

### Summary of Legislation

<b>Protection for animals included on Schedule 5 of the Wildlife and Countryside Act 1981 (As Amended)</b>		
Section 9	Part 1	Intentionally kill, injure, take a scheduled animal
	Part 2	Possess or control (live or dead animal, part or derivative)
	Part 4 (a)	Intentionally or recklessly damage, destroy or obstruct access to any structure or place used by a scheduled animal for shelter or protection
	Part 4 (b)	Intentionally or recklessly disturb an animal occupying such a structure or place
	Part 5 (a)	Sell, offer for sale, possess or transport for the purpose of sale (live or dead animal, part or derivative)
	Part 5 (b)	Advertise for buying or selling such things

<b>Protection for animals included on Schedule 2 of the Conservation of Habitats and Species (Amendment) Regulations 2012</b>		
A person commits an offence if he:		
Section 41	Part 1(a)	Deliberately captures, injures or kills any wild animal of a European protected species
	Part 1(b)	Deliberately disturbs wild animals of any such species. (1A) For the purpose of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely a) to impair their ability i. to survive, breed or reproduce or to rear or nurture their young; or ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate. b) to affect significantly the local distribution or abundance of the species to which they belong
	Part 1(c)	Deliberately take or destroy the eggs of such an animal
	Part 1(d)	Damage or destroy a breeding site or resting place of such an animal
	Part 3	To: a) be in possession of, or to control, b) transport, c) sell or exchange, or d) to offer for sale or exchange. (4) For the purpose of (3) this applies to: a) any live or dead animal or part of animal i) which has been taken from the wild, and ii) which is a species or subspecies listed in Annex IV(a) to the Habitats Directive; and b) anything derived from such an animal or any part of such an animal.

### **Badgers**

Badgers are afforded full protection under the Protection of Badgers Act 1992, which makes it an offence to:

- Wilfully kill, injure or take a badger;
- Possess or control any live or dead badger or any part, or anything derived from, a dead badger;
- cruelly ill-treat a badger, or attempt to do so;
- To interfere with a sett by:
  - damaging or destroying it;
  - obstructing access to, or any entrance of, a badger sett;
  - causing a dog to enter a badger sett;
  - disturbing a badger when it is occupying a sett.;
- Sell a live badger or offer one for sale.

It is also an offence to mark, attach any ring, tag or other marking device to a badger unless authorised under licence.

### **Bats**

All UK bat species are European Protected Species and afforded full protection through inclusion of Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

Barbastelle, Bechstein's, greater mouse-eared, pipistrelle, greater horseshoe and lesser horseshoe bats are included within the Natural Environment and Rural Communities (NERC) Act 2006 in respect of Section 41 (England). Species included in this list are considered by the Secretary of State to be "*of principal importance for the purpose of conserving biodiversity*". Bats are therefore listed as a priority species on the UK Biodiversity Action Plan (BAP). Barbastelle, Bechstein's, noctule, soprano pipistrelle, brown long-eared, greater horseshoe and lesser horseshoe bats are all UK BAP species.

### **Birds**

All wild birds, their nests and eggs are protected throughout the breeding season (1 March to 31 August) under the Wildlife and Countryside Act, 1981 (as amended),

which makes it an offence intentionally (with certain limited exceptions and in the absence of a licence) to:

- Kill or injure any wild bird;
- Take, damage or destroy the nest of any wild bird whilst it is in use or being built;
- Take or destroy the egg or any wild bird.

It is also an offence to possess any live or dead wild bird or egg, or anything derived from a wild bird or egg. Restrictions on trade and advertising also apply.

Bird species listed on Schedule 1 of the Wildlife and Countryside Act, 1981 (as amended) are afforded additional protection against intentional or reckless disturbance whilst it is nest building, or at a nest containing eggs or young or disturbance to the young of a Schedule 1 bird.

In addition to this legal protection, the leading governmental and non-governmental conservation organisations in the UK have reviewed the population status of the birds regularly found here and produced a list of birds of conservation concern. Of the 247 species assessed, 40 were placed on the red list of high conservation concern, 121 on the amber list of medium conservation concern and 86 on the green list of low conservation concern. Consideration is therefore given to those species listed as being of conservation concern.

### ***Dormouse***

The common dormouse is a scarce species, whose distribution has declined by more than half in the past century. Dormice are afforded full protection through inclusion on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

Dormice are included within the Natural Environment and Rural Communities (NERC) Act 2006 in respect of Section 41 (England). Species listed on this section are considered to be of principal importance for the conservation of biodiversity and as such are listed as a priority species on the UK Biodiversity Action Plan (BAP).

### ***Great Crested Newts***

Great crested newts are afforded full protection through inclusion on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

This legislation covers all life stages of great crested newts.

Under the Wildlife and Countryside Act 1981, other amphibians, including smooth and palmate newts and common frogs cannot be sold or be offered for sale. The habitats of these amphibians are not legally protected and they are not protected from intentional or deliberate killing or injuring.

Great crested newts are included within the Natural Environment and Rural Communities (NERC) Act 2006 in respect of Section 41 (England). Species listed on this section are considered to be of principal importance for the conservation of biodiversity and as such are listed as a priority species on the UK Biodiversity Action Plan (BAP) and the Oxfordshire local BAP.

### ***Reptiles***

Six native reptiles occur in Britain: the adder (*Vipera berus*), the grass snake (*Natrix natrix*), the smooth snake (*Coronella austriaca*), the sand lizard (*Lacerta agilis*), the common lizard (*Zootoca vivipara*) and the slow worm (*Anguis fragilis*).

The smooth snake and sand lizard are afforded complete protection through inclusion on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010.

These two species are very limited in their UK distribution and are not recorded in the Oxfordshire area. Other common reptiles (common lizard, grass snake, adder and slow worm) are protected against intentional killing and injuring, sale and possession.

All six reptile species are listed as priority species on the UK Biodiversity Action Plan.