

Arrangements for the issue of licences under the Protection of Badgers Act 1992



Llywodraeth Cymru
Welsh Government

Notes for Guidance

Power to grant licences

1. The Protection of Badgers Act 1992 fully protects badgers and their setts and makes it an offence to kill, injure or take a badger, to cruelly ill-treat a badger or to interfere with a badger sett. However, the Welsh Government has authority under Section 10(2) and (3) of the Act to issue licences to:
 - a) interfere with badger setts for:
 - i) the purpose of any agricultural or forestry operation;
 - ii) the purpose of any operation to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of land, including works of defence against seawater or tidal water; and
 - iii) controlling foxes in order to protect livestock and penned game.
 - b) kill or take badgers or to interfere with their setts for:
 - i) the purpose of preventing the spread of disease; and
 - ii) the purpose of preventing serious damage to land, crops, poultry or any other form of property.

The Natural Resources Wales are also a licensing authority under the 1992 Act. **They are responsible for issuing licences for the following purposes:**

- a) scientific or educational purposes for the conservation of badgers;
- b) for the purpose of any zoological gardens or collection;
- c) for the purpose of ringing or marking badgers
- d) for the purpose of any developments as defined in section 55(1) of the Town and Country Planning Act 1990;
- e) for the purpose of preservation, or archaeological investigation, of a monument scheduled under section 1 of the Ancient Monuments and Archaeological Area Act 1970;
- f) for the purpose of investigating whether an offence has been committed or gathering evidence in connection with any proceedings before any Court; and
- g) for controlling foxes in order to protect released game or wildlife.

If having read this leaflet, you consider that the Natural Resources Wales are the appropriate licensing authority you should contact:

Species Protection Team
Natural Resources Wales
Maes y Ffynnon
Penrhosgarnedd
Bangor
Gwynedd LL57 2DW

Telephone number: 03000 653 000

Arrangements for the granting of licences

2. If the licence you require is one for which the Welsh Government is the responsible licensing authority, with the exception for a licence to prevent the spread of disease, please complete the 'Protection of Badger Act: Application for a Licence' form as fully as possible and send it to the Welsh Government, Land, Nature and Forestry Division, Rhodfa Padarn, Llanbadarn Fawr, Aberystwyth, Ceredigion, SY23 3UR. Alternatively, you can send the form via email Wildlife@gov.wales. Arrangements will then be made for a site visit to be carried out by a Welsh Government Wildlife Consultant to assess your application (unless one has already been undertaken). Once all the relevant details have been considered by the Welsh Government, a decision will be taken within 30 working days of receipt of your completed application form on whether a licence is warranted and, if so, what action should be allowed to be taken under licence.

Application and Guidance Note for licences for the purpose of preventing the spread of disease can be obtained from Wildlife@gov.wales.

3. Licences will only be issued where: the badgers are causing a sufficiently serious problem to justify a licence; other methods of control have been shown to be ineffective or impracticable and not just difficult to implement, and where the licenced activity will be successful in solving the problem being caused.

Completing the application form

4. The following notes are intended only as guidelines to help you complete the application forms as fully as possible.
 - a) Nature and extent of the problem:
 - i) for the nature of the problem you should give a description of the type of damage being caused. This may include situations where: direct damage is being caused to crops; fields or roads are being undermined and, therefore, posing a danger to vehicles or livestock; normal agricultural or forestry operations are being impeded;

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livestock is the subject of predation or where property or land is being threatened or damaged.

- ii) for the extent of the problem you should give an indication of the seriousness of the problem and, where possible, of the economic loss or the extent to which land or property is being damaged or threatened. Where safety is concerned the degree of risk to humans or livestock should be indicated. If supporting evidence, such as an engineer's or surveyor's report is available then this should be provided.
- b) Preventative measures taken. This should include information on any methods that have already been tried to alleviate the problem. You should also explain why these methods were not successful. If no preventative methods have been tried you should explain why. Reasons for this might be that the cost of the method is prohibitively expensive or impractical.

Licensing Conditions

5. The licence conditions will vary depending on the nature of the work to be licenced. However, in all cases the following licence conditions will apply:
 - a) any person authorised by the licensee to carry out the work permitted by the licence shall provide the licensee with such information as is necessary to enable the licensee to provide the report referred to at (b) below;
 - b) the licensee must provide details of each operation taken under the licence to the Welsh Government, Land, Nature and Forestry Division no later than the 14th day after the expiry of the licence; and
 - c) licensee shall permit a Welsh Government official, accompanied by such persons as he/she considers necessary for the purpose, on production of his/her identification on demand, to be present during any operations carried out under the authority of the licence.
6. The licence may authorise other persons to carry out the operations specified in accordance with the terms of the licence. In such cases, this authorisation must be given in writing and carried by each authorised person during the course of operation. Within the maximum number specified in the licence conditions, the licensee may make changes to the persons authorised. In such cases, the written authorisation of the substituted person must be cancelled to avoid being in breach of the licence. The licensee remains responsible for ensuring that any persons authorised are aware of and have understood the terms and conditions of the licence and that a copy of the licence is available to the authorised person for reference on site whilst licenced operations are in progress.

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Offences

7. Failure to comply with the terms of a licence may make the licensee liable to prosecution for an offence.

Consultation

8. Under the Protection of Badgers Act 1992, the Welsh Government is obliged to consult with the Natural Resources Wales (NRW), the statutory conservation agency, on the Welsh Government licensing policy and the circumstances in which licences may be granted. This does not mean that the Welsh Government is obliged to consult NRW on each licence application. In general, NRW will only be consulted in unusual or novel cases.

Handling of your Information

9. All of the information you provide to the Welsh Government relation to your licence application will be processed and managed by us in accordance with our obligations and duties under the:
 - The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679);
 - Data Protection Act 1998;
 - Freedom of Information Act 2000;
 - The Environmental Information Regulations 2004; and
 - All other laws relating to access to information.
10. Your information, including your personal information, may be the subject of a freedom of information request by another member of the public. When responding to such requests we may be required to release information, including your personal information. Before responding to such requests we would consult with you to seek your views on release, though the final decision will rest with the Welsh Government.
11. If you are making an application on behalf of landowners/occupiers you should make them aware of the Welsh Governments data handling requirements.

Data Protection Privacy Notice

Background

12. The Protection of Badgers Act 1992 fully protects badgers and their setts and makes it an offence to kill, injure or take a badger, to cruelly ill-treat a badger or interfere with a badger sett. However, under these Acts it is permissible to issue licenses to interfere with a badger sett and to take or

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kill a badger. Therefore a licences system has been established to evaluate, issue and monitor these licenses.

13. Upon receipt of the personal data from the applicant the Welsh Government becomes the data controller for it.

14. The personal data that will be collected and held includes:

- Personal details such as name, address and telephone number.
- Whether a licence has previously been sought and given.
- Whether you are the owner / occupier of the land covered by the licence.

What do we do with your information?

15. In our remit as data controller, the Welsh Government uses the information received in the application form to evaluate the application, issue and monitor any licence granted to interfere with badger sett and to kill or take a badger to prevent serious damage to property. These purposes are necessary so as to enable us to carry out this public task set under the Protection of Badgers Act 1992.

Who do we share your information with?

16. The WG is obliged to consult with Natural Resources Wales (NRW) regarding the circumstances in which licences may be granted. Your personal data is not transferred outside the UK.

How long will we keep your information?

17. These Badger licencing files will be retained for 6 year period from the date the licence expires or revoked or the application is refused.

Your rights in relation to your information

18. Under data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it.
- require us to rectify inaccuracies in that data.
- to (in certain circumstances) object to or restrict processing.
- for (in certain circumstances) your data to be 'erased'.
- to (in certain circumstances) data portability.
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

19. For further information about the information which the Welsh Government holds and its use, or if you wish to exercise your rights under the GDPR, please see contact details below.

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In the Welsh Government, badger licences are carried out by the Land Nature and Forestry Division who can be contacted at:

Welsh Government
Land Nature and Forestry Division
Rhodfa Padarn
Llanbadarn Fawr
Aberystwyth
Ceredigion
SY23 3UR.
Email: wildlife@gov.wales
Tel: 0300 061 5920

The contact details for the Welsh Government's Data Protection Officer are:

Welsh Government
Data Protection Officer
Cathays Park
Cardiff
CF10 3NQ
Email: DataProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Information Commissioner's Office (Wales)
2nd Floor
Churchill House
Churchill Way
Cardiff
CF10 2HH
Email: wales@ico.org.uk
Tel: 029 2067 8400 / 0303 123 1113
Website: www.ico.org.uk

Further information

20. This leaflet only provides a summary of the legislation and licensing procedures. Further information regarding licensing arrangements can be obtained from the Land, Nature and Forestry Division (address above) or contact Wildlife@gov.wales.

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