

Police and court powers

A police officer who suspects with reasonable cause that a person is committing – or has committed – an offence can stop and search them, search or examine any relevant thing in their possession, and seize it. They can also enter land other than a dwelling house (dwelling or lockfast premises in Scotland) without a warrant, or enter and search a dwelling house with a warrant. Bat-related offences are arrestable.

The potential fine for each offence is £5,000 and, if more than one bat is involved, £5,000 per bat. An offender can also be imprisoned for six months. The forfeiture of any bat or other thing by the court is mandatory on conviction, and items used to commit the offence –



Common pipistrelle (Hugh Clark)

the Act to the attention of the public and schoolchildren, and allows the LA to take prosecutions in its area. In addition, LAs will have regard to government planning policy guidance, statements and circulars in safeguarding bats.

Because of its brevity this leaflet does not aim to answer specialist queries or problems and so you should refer to the individual Acts for detailed information. Further information on what to do when the law is broken, along with information on bats and their roosts, is available from the Bat Conservation Trust.

Contacts

Bat Conservation Trust

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8 Battersea Park Road
London SW8 4BG

Bat Helpline **0845 1300 228**

www.bats.org.uk

email investigations@bats.org.uk

Statutory Nature Conservation Organisations (SNCOs):

English Nature

telephone 01733 455000
www.english-nature.org.uk

Scottish Natural Heritage

telephone 0131 447 4784
www.snh.gov.uk

Countryside Council for Wales

telephone 0845 1306 229
www.ccw.gov.uk

Environment and Heritage Service (Northern Ireland)

telephone 02890 546558
www.ehsni.gov.uk

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Cover image: Brown long-eared bats (J J Kaczanow)

Bat Conservation Trust

Bats & the law

A basic introduction



The legal protection of bats in the British Isles

Which laws are relevant to bats?

The Wildlife and Countryside Act 1981 (WCA) protects bats and their roosts in England, Scotland and Wales. Some parts have been amended by the Countryside and Rights of Way Act 2000 (CROW) which applies in England and Wales, and by the Nature Conservation (Scotland) Act 2004 which applies in Scotland.

The Conservation (Natural Habitats, &c.) Regulations 1994 – better known as the Habitats Regulations – implements the European Union’s Council Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as the Habitats Directive. All bats are listed as ‘European protected species of animals’. In Northern Ireland they are protected under the 1995 Northern Ireland Regulations.

Bats and their roosts may also be protected by site safeguard measures, for example if their roost site or feeding grounds are notified as a Special Area of Conservation (SAC) or a Site of Special Scientific Interest (SSSI).

In Northern Ireland the Wildlife and Countryside Act 1981 is mirrored by the Wildlife (Northern Ireland) Order 1985. In the Isle of Man it is mirrored by the Wildlife Act 1990.

In Jersey the Conservation of Wildlife (Jersey) Law 2000 protects bats. Legislation covering the Bailiwick of Guernsey is in progress at the time of writing.

How does the law protect bats?

Because legislation varies slightly across the British Isles, you should refer to your relevant legislation for the precise wording.

In summary, for England, Scotland and Wales it is an offence for any person to:

- intentionally (intentionally or recklessly in Scotland) kill, injure or take a bat. Under the Habitats Regulations it is an offence to deliberately capture or kill a bat.

- possess or control a live or dead bat, any part of a bat, or anything derived from a bat. This is an offence of strict liability, i.e. the onus of proof is on the person in possession of the bat to show, on a balance of probabilities, that they have it lawfully. An offence is not committed if the person can show that the bat was not killed, taken, or sold to them or anyone else illegally.
- intentionally or recklessly damage, destroy or obstruct access to any structure or place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not. There is a defence that this is not illegal in a dwelling house, but the defence can only be relied on - other than in the living area of a dwelling house - if the relevant Statutory Nature Conservation Organisation (SNCO), eg English Nature, Countryside Council for Wales, Scottish Natural Heritage or Environment & Heritage Service (Northern Ireland), was notified about the proposed action and allowed reasonable time to advise as to whether it should be carried out and, if so, how. Under the Habitats Regulations it is an offence to damage or destroy a breeding site or resting place of any bat. This is an absolute offence – in other words, intent or recklessness does not have to be proved.
- intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection (there is a defence that this is not illegal in a dwelling house, but the defence can only be relied on – other than in the living area of a dwelling house – if the relevant SNCO was notified about the proposed action and allowed reasonable time to advise as to whether it should be carried out and, if so, how). Under the Habitats Regulations it is an offence to deliberately disturb a bat (this applies anywhere, not just at its roost).
- set and use articles capable of catching, injuring or killing a bat (for example a trap or poison), or knowingly cause or permit such an action. This includes sticky traps intended for animals other than bats.
- sell, offer or expose for sale, or possess or transport for the purpose of sale, any live or dead bat, any part of a bat, or anything derived from a bat. It is also an offence to publish, or cause to be published, any advertisement likely to be understood as conveying that they buy or sell, or intend to buy or sell, any live or dead bat, part of a bat or anything derived from a bat. Sale includes hire, barter and exchange.
- make a false statement to obtain a licence for bat work.
- attempt to commit an offence or, for the purposes of committing an offence, possess articles capable of being used for this. This is punishable in a like manner as for the actual offence under the wildlife legislation.

It is not illegal:

- for someone to take a disabled bat for the sole purpose of tending it and releasing it when no longer disabled as long as that person can show that it was not disabled unlawfully by them.
- for someone to kill a bat, as long as that person can show that the bat was so seriously disabled, other than by their own unlawful act, that there was no reasonable chance of it recovering.
- if the otherwise illegal act was the incidental result of a lawful operation and could not reasonably have been avoided. However, this defence can be relied on (other than in the living area of a dwelling house) only if the relevant SNCO was notified about the proposed action and allowed reasonable time to advise as to whether it should be carried out and, if so, how.