

ENVIRONMENTAL PROTECTION
THE ENVIRONMENTAL PROTECTION (RESTRICTION ON USE OF
LEAD SHOT) (SCOTLAND) (No.2) REGULATIONS 2004

The attached draft Environmental Protection (Restriction on Use of Lead Shot) (Scotland) (No. 2) Regulations 2004 (“the Draft Regulations”) are intended to address the issue of the poisoning of waterfowl through ingestion of spent lead shot and seek to revoke and replace the Environmental Protection (Restriction on Use of Lead Shot) (Scotland) Regulations 2004 (“the Original Regulations”). The policy and scientific elements of the Draft Regulations remain unchanged from the Original Regulations. It is intended that all of the provisions in the Draft Regulations will come into force on 31st March 2005 except for the revocation provision (regulation 7 in the attached draft) which it is intended will come into force on 31st August 2004.

2004 No.

ENVIRONMENTAL PROTECTION

**The Environmental Protection (Restriction on Use of Lead Shot)
(Scotland) (No. 2) Regulations 2004**

Made - - - - 2004

Laid before the Scottish Parliament 2004

Coming into force in accordance with regulation 1(2)

The Scottish Ministers, having consulted the Committee established under section 140(5) of the Environmental Protection Act 1990(1); having published notices in the London Gazette and in the Edinburgh Gazette as required by section 140(6)(b) of that Act; having considered representations made to them in accordance with that notice; having considered it appropriate to make these Regulations for purpose of preventing the substance or articles specified in them from causing pollution of the environment and harm to the health of animals, in exercise of the powers conferred on them by section 140 of that Act, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Environmental Protection (Restriction on Use of Lead Shot) (Scotland) (No. 2) Regulations 2004.

(2) Regulation 7 shall come into force on 30th August 2004 and the remaining provisions of these Regulations shall come into force on [].

(3) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“lead shot” means any shot made of—

- (a) lead,
- (b) any alloy or compound of lead where lead comprises more than 1% of that alloy or compound;

“the Ramsar Convention” means the Convention on Wetlands of International Importance, especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—

- (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and
- (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting parties held at Regina, Saskatchewan, Canada between 28th May and 3rd June 1987(2);

(1) 1990 c.43. The Advisory Committee on Hazardous Substances was established by S.I. 1991/1487. Section 140(3)(c) was amended by S.I. 1999/1108. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) Cmnd 6465. The Paris Protocol and Regina Amendments are published in Cmnd 9113 and Cmnd 3053 respectively.

“shot gun” means a smooth-bore gun but does not include any shot gun chambered for 9 millimetre or smaller rim-fire cartridges;

“wetlands” has the meaning given in regulation 3.

Wetlands

3.—(1) Subject to paragraph (2), “wetlands” has the meaning given in Article 1(1) of the Ramsar Convention.

(2) For the purposes of these Regulations only the reference in that Article to—

- (a) “temporary” in relation to wetlands means wetlands which are covered with water on a seasonal, intermittent or regular basis;
- (b) “peatlands” means only peatlands with visible water.

Prohibition on use of cartridges containing lead shot

4. No person shall use lead shot for the purpose of shooting with a shot gun on or over wetlands.

Offences

5. Any person who contravenes regulation 4, 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.

Offences by bodies corporate etc.

6.—(1) Where an offence under regulation 5 committed—

- (a) by a body corporate, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
 - (i) is a director, manager or secretary of the body corporate; or
 - (ii) purports to act in any such capacity;
- (b) by a Scottish partnership is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
 - (i) is a partner; or
 - (ii) purports to act in that capacity;
- (c) by an unincorporated association, other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
 - (i) is concerned in the management or control of the association; or
 - (ii) purports to act in the capacity of a person so concerned,

that person (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate.

Revocation

7. The Environmental Protection (Restriction on Use of Lead Shot) (Scotland) Regulations 2004(3) are hereby revoked.

St Andrew's House,
Edinburgh

Authorised to sign by the Scottish Ministers

2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, prohibit the use of lead shot for shooting with a shot gun on or over wetlands (regulation 4). Regulation 2 contains definitions of terms referred to in the Regulations.

Regulation 3 defines “wetlands” by reference to Article 1(1) of the Ramsar Convention (the Convention on Wetlands on International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971), with further explanation of the terms “peatland” and “temporary” wetlands for the purposes of the Regulations. Article 1(1) states:

“For the purposes of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.”

The Ramsar Convention provides a detailed “Classification System for Wetland Types” which provides further guidance as to what constitutes a wetland. A copy of the Convention and the Classification System is available at http://www.ramsar.org/key_conv_e.htm.

Regulation 5 creates the offence of contravention, or causing or permitting the contravention of regulation 4. It makes that offence punishable summarily with a fine not exceeding level 3 on the standard scale.

Regulation 6 provides for offences which are committed by bodies corporate, partnerships and unincorporated associations and extends those offences to persons in control of such bodies in certain circumstances.

Regulation 7 revokes the Environmental Protection (Restriction on Use of Lead Shot) (Scotland) Regulations 2004, which these Regulations replace.