

Leigh Day

The Rt Hon George Eustice MP

Secretary of State for Environment, Food and Rural Affairs
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Your Ref:

Our Ref: TWS/TWS/00191552/24

Date: 21 March 2022

Edwin Poots MLA

Minister of Agriculture Environment and Rural Affairs
Room 438 Dundonald House
Upper Newtownards Road
Ballywiscaw
Belfast BT4 3SB Northern Ireland Email:
edwin.poots@MLA.niassembly.gov.uk

Dear Secretary of State, Dear Minister,

Re: Power to vary the close season for Woodcock

1. We write on behalf of our client Wild Justice regarding the close season for Woodcock in Great Britain and Northern Ireland which we understand you have the power to vary.

Current close season and declining population

2. As you will know, it is an offence under section 1(1) of the Wildlife and Countryside Act 1981 (“**WCA 1981**”) for any person intentionally to kill, injure or take any wild bird. However, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the “close season” for that bird. The species listed in Part 1 of Schedule 2 include the Woodcock (*Scolopax rusticola*), for which the close season is the period in any year commencing (in England, Wales and Northern Ireland) on 1 February and ending 30 September (section 2(4) WCA 1981) and (in Scotland) commencing on 1 February and ending on 31 August. As considered further below, it appears that those dates were set in the original framing of the 1981 Act and have not been amended since (although the dates in relation to some other species have been changed since 1981).
3. Importantly here, there have been significant changes in knowledge of population trends and of assessment of conservation status since 1981.

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4. The conservation status of the resident UK breeding population was upgraded to Red in 2015 by a group of ornithologists from statutory (Joint Nature Conservation Committee and Natural England) and non-governmental bodies (British Trust for Ornithology, Game and Wildlife Conservation Trust, Royal Society for the Protection of Birds and Wildfowl and Wetlands Trust) in recognition of the marked decline in its breeding range and of population numbers. That assessment of Red remains in place following the 2021 assessment which also was a joint assessment by statutory (JNCC, Natural Resources Wales, NatureScot, NE, and Northern Ireland Environment Agency) and NGO organisations (BTO, GWCT and RSPB). Previously, similar assessments in 2002 and 2009, had listed Woodcock as of Amber concern.

5. While migratory populations of Woodcock appear to remain stable at a European scale, studies show a severe decline in the population size and breeding range of resident Woodcock since 1970. Atlas data (from 1968-72, 1988-91 and 2008-11) indicate that Woodcock presence fell by 56% at the 10km square scale between 1968-72 and 2008-11, including a decline of 29% between 1988-91 and 2008-11. Common Birds Census monitoring shows a steep and continuing decline from the mid-late 1970s to the present day. In randomised surveys across Britain in 2003 and 2013, occupancy of 1km squares that contained at least 10ha of woodland dropped from 35% to 22%. The British population estimate fell by 29% from 78,350 males in 2003 to 55,240 males in 2013. Both data sources suggest regional variation in the rate of decline, with losses greatest in the west and south¹.

6. While there is no official or adequate monitoring of bag numbers, the GWCT estimates that some 160,000 Woodcock may now be shot annually in the UK². However, key here is that (given the current close season dates) that total comprises both resident British birds and winter migrants. That is because the resident British population is greatly augmented in winter by visitors from continental Europe and Asia. An article by GWCT scientists and the Woodcock Network³ published in 2020 in British Birds⁴ showed that many wintering Woodcocks satellite tagged in Britain and Ireland in February and March return to breeding areas in Norway,

¹ Stanbury et al. 2021 The Status of our bird populations: the fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of man and second IUCN assessment of extinction risk for Great Britain. British Birds 114: 723-747. Eaton et al. 2015 Birds of Conservation Concern 4: the population status of birds in the UK, Channel Island and Isle of Man. British Birds 108: 708-46. Eaton et al. 2009 Birds of Conservation Concern 3: the population status of birds in the United Kingdom, Channel Islands and Isle of Man. British Birds 102: 296-341. Gregory et al. 2002 British Birds 95:410-48. BTO data can be found here <https://app.bto.org/birdtrends/species.jsp?year=2020&s=woodc> Sharrock, JTR. 1976. The Atlas of Breeding Birds in Britain and Ireland. Gibbons et al. 1993. The new Atlas of breeding Birds in Britain and Ireland: 1988-91. Balmer et al. 2013. Bird Atlas 2007-11.

² GWCT Factsheet available here: <https://www.gwctknowledge.com/wp-content/uploads/2018/07/otherquarryspecies.pdf>

³ See here: <http://www.ringwoodcock.net/>

⁴ Hoodless, A., Heward, C. and Williams, O. (2020). Migration and movements of Woodcocks wintering in Britain & Ireland. British Birds, Volume 113, Issue 5

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Denmark, Sweden, Finland, Latvia, Poland and Belarus (39%), west and northwest Russia (54%) with 8% of them heading into Siberia and breeding over 6000km from their wintering sites.

7. It follows that, as continental birds arrive mostly during October and November, any Woodcock shooting in September and much of October will primarily be directed at the declining British and Irish breeding population.

8. GWCT has not ruled out shooting as a factor contributing to the decline of our resident Woodcock population. The British Birds article contends that an obvious way to minimise any impact is to shoot Woodcock only when large numbers of migrants are present (in mid-winter, migrant Woodcocks in Britain are estimated to outnumber residents by approx. 10:1). For this reason, GWCT publications specifically recommend refraining from shooting Woodcock before 1 December⁵.

9. There is clear evidence of non-compliance with the voluntary restraint suggested in the paper. Even a rapid search online reveals adverts for Woodcock shooting in Somerset from at least November⁶, Devon from 1 October⁷, Raasay, Scotland from 1 November⁸, Kintyre, from 1 October⁹ and Cambusmore, Scotland from 1 October¹⁰.

Power to vary the close season to protect Woodcock

10. The concept of a close season dates back to the Game Act 1831 and the setting of dates for the close season of the Woodcock in the WCA in 1981 occurred before the long-term decline of the resident population became evident.

11. In Great Britain, the Secretary of State has the power to vary the close season for Woodcock pursuant to section 2(5) WCA 1981. In Northern Ireland, the Minister has the same power to vary the close season for Woodcock pursuant to section 7 Game Preservation Act (Northern

⁵ GWCT publication A Sportsman's Guide to woodcock – Updated for 2017. Available here: <https://www.gwct.org.uk/media/696047/pocket-woodcock-guide.pdf>

See here: <https://www.woodcock-hunting.com/shoot-details/woodcock-hunting-at-cambusmore-highlands-of-scotland/83>

⁶ See here: <https://www.woodcock-hunting.com/shoot-details/driven-woodcock-hunt-in-somerset-nr-taunton/24>

⁷ See here: <https://www.woodcock-hunting.com/shoot-details/woodcock-shoot-north-devon/61>

⁸ See here: <https://www.woodcock-hunting.com/shoot-details/woodcock-shooting-on-the-isle-of-raasay-western-isles-of-scotland/12>

⁹ See here: <https://www.woodcock-hunting.com/shoot-details/woodcock-shoot-mull-of-kintyre-islands-of-scotland-area-1/59>

¹⁰ See here: <https://www.woodcock-hunting.com/shoot-details/woodcock-shoot-mull-of-kintyre-islands-of-scotland-area-1/59>

Ireland) 1928 (“GPA 1928”)(as amended by section 37(1) Wildlife and Natural Environment Act (Northern Ireland) 2011).

12. Our client is of the view that there is now compelling evidence for the Secretary of State and the Minister each to exercise their respective power to vary the close season for the Woodcock.

13. The Woodcock is now listed as a species of the highest UK concern in terms of its conservation status, rendering it perhaps perverse to be on the quarry list of species. There appears to be a consensus between conservation and pro shooting bodies that an extension to the close season from 31 August until 30 November would be beneficial to the recovery of the resident Woodcock population.

14. Furthermore, the Secretary of State for Environment, Food and Rural Affairs of the United Kingdom is obliged to set a “species abundance target” by 31 December 2030 under the Environment Act 2021¹¹. The achievement of this target would usefully include easily regulated, and seemingly non-controversial, factors such as improving the regulation of shooting through adjustment of shooting seasons in response to scientific information.

15. Similar changes have previously been made to the permissions as set out in the WCA 1981 albeit by a slightly different statutory route. In 2001, the Wildlife and Countryside Act 1981 (Amendment) (Scotland) Regulations (SSI 2001/337¹²) were made to remove the Capercaillie (Tetrao urogallus) from Part I of Schedule 2 to the WCA 1981 to ensure compliance with the Wild Birds Directive. This provided greater legal protection to the Capercaillie by making offences involving the bird punishable by special penalties as described in Section 21 of the WCA 1981. The Regulations also removed the reference to Capercaillie in the definition of “close season”, as set out in section 2(4)(a) of the WCA 1981 and removed the reference to Capercaillie as a bird which may be sold from Schedule 3 of that Act. Clearly, the 2001 Regulations were made before devolution and the procedure for exercising the power to amend the close season for the Woodcock would now be quite different.

16. While the power to vary the close season in Great Britain and in Northern Ireland lie respectively with the Secretary of State and the Minister to whom this letter is addressed, Wild Justice hopes that all four UK nations can work together to implement change that would contribute directly and swiftly to the recovery of this species across the United Kingdom. We therefore copy this letter to the respective Minister (in Wales) and Cabinet Secretary (Scotland), as well as to their relevant statutory conservation bodies.

17. In light of the evidence supporting a change to the close season for Woodcock, we invite you please to:

- (i) confirm whether the relevant Minister will now order that the close season be amended ahead of the 2022 open season; or

¹¹ Section 3(1) Environment Act 2021, available here:

<https://www.legislation.gov.uk/ukpga/2021/30/section/3/enacted>

¹² See here: <http://www.ukwildlife.com/index.php/wildlife-countryside-act-1981/variations/#337>

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(ii) in the event that the relevant Minister does not agree to amend the close season, to set out the basis for their respective refusal to do so including what assessment or information they have taken into account of the impact of the current close season dates on the resident (as opposed to migratory) population of Woodcock.

18. We also request that you provide all information relating to any reviews or assessments which have been undertaken by you or your respective Department or Ministry in relation to the possible exercise of the section 2(4) WCA 1981 power or section 7 GPA 1928 power respectively, including in relation to the closed season for Woodcock.

We should be grateful for a substantive response within 14 days of the date of this letter.

Yours sincerely,

Leigh Day

cc:

- i. Lesley Griffiths MS, Minister for Rural Affairs, North Wales and Trefnydd, Welsh Government, 5th Floor, Tŷ Hywel, Cardiff Bay, Wales CF99 1NA. Email: Correspondence.Lesley.Griffiths@gov.wales
- ii. Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and Islands, The Scottish Government, St Andrew's House, Regent Road, Edinburgh, Scotland EH1 3DG. Email: CabSecRAI@gov.scot
- iii. Natural England, County Hall, Spetchley Road, Worcester WR5 2NP. Email: enquiries@naturalengland.org.uk
- iv. Natural Resources Wales, Rivers House, St Mellons Business Park, St Mellons, Cardiff CF3 0EY. Email: enquiries@naturalresourceswales.gov.uk
- v. NatureScot, Great Glen House, Leachkin Road, Inverness, IV3 8NW. Email: ENQUIRIES@Nature.scot
- vi. Department of Agriculture, Environment and Rural Affairs (DAERA), Dundonald House, Upper Newtownards Road, Ballymiscaw, Belfast BT4 3SB. Email: daera.helpline@daera-ni.gov.uk
- vii. Ms Christine Maggs (Chief Scientist) and Mr Bev Nicholls and Ms Elly Hill (Nature Conservation Policy and Advice Team (co-leads), Joint Nature Conservation Committee (JNCC), Monkstone House, City Road, Peterborough PE1 1JY. Email: data@jncc.gov.uk and Comment: comment@jncc.gov.uk

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