

Protection

All of the native species (and all species of marine turtle) receive some degree of protection through the **Wildlife and Countryside Act 1981** (as amended). There have been two alterations to the **Schedules** to this Act which have increased the level of protection since it was originally passed (these occurred in 1988 and 1991). There are three different levels of protection afforded to our amphibians and reptiles through the Wildlife and Countryside Act 1981; this results from different parts of Section 9 of the Act applying to the different species (as specified in **Schedule 5**).



full protection

This applies to the great crested newt, natterjack toad, sand lizard and smooth snake and to all species of marine turtle (i.e. the families Dermochelyidae and Cheloniidae) when found in British waters. All parts of Section 9 apply. This prohibits the intentional killing, injuring or taking (capture, etc); possession; intentional disturbance whilst occupying a 'place used for shelter or protection' and destruction of these places; sale, barter, exchange, transporting for sale and advertising to sell or to buy.

In essence, captive bred animals of the listed above can be legally sold, but wild animals could not be taken, disturbed or sold without a license.

protection against killing, injuring and sale, etc

This level of protection applies to the four widespread species of reptile, namely the common lizard, slow-worm, grass snake and adder. Only part of sub-section 9(1) and all of sub-section 9(5) apply; these prohibit the intentional killing and injuring and trade (i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy). It is not an offence under the Wildlife and Countryside Act 1981 to possess these animals.

Wild animals could be taken from the wild, however could not be sold. Captive bred animals of the listed above, although, can be legally sold.

protection against sale, etc, only

The four widespread species of amphibian, the smooth and palmate newts, the common frog and common toad, are protected only by Section 9(5) of the Wildlife and Countryside Act 1981. This section prohibits sale, barter, exchange, transporting for sale and advertising to sell or to buy. Collection and keeping of these widespread amphibian species is not an offence.

Extent of protection

The Wildlife and Countryside Act 1981 only applies to 'wild animals'; these are defined as those that are living wild or were living wild before being captured or killed. It does not apply to captive bred animals being held in captivity. However, animals in gardens (e.g. newts in garden ponds) and captive bred animals that have been released to the wild are likely to be included in this definition.

The Wildlife and Countryside also prohibits the release of non-native species into the wild (Section 14). This is to prevent the release of exotic species that could threaten our native wildlife. Some populations of non-native species, such as the marsh frog *Rana ridibunda*, alpine newt *Triturus alpestris* and wall lizard *Podarcis muralis* have become established in the wild in Britain. The legislation does not prohibit capturing and keeping these animals but it makes re-releasing them an offence.

There are 'defences' provided by the legislation. These are cases where acts that would otherwise be prohibited by the legislation are permitted. Notably these allow things to happen that are reasonable, unpredictable and unavoidable, such as running over a slow-worm on the road.



Other legislation

All reptiles and amphibians held in captivity are covered by the Protection of Animals Act 1911 which prohibits cruelty and ill-treatment of animals. Keeping adders is prohibited, unless licensed by the Local Authority, by the Dangerous Wild Animals Act 1976. Scientific research is controlled by the Animals (Scientific Procedures) Act 1986 and this prevents activities such as toe-clipping unless licensed by the Home Office. Sales of products made from marine turtles are restricted by the EC Regulation no. 3626/82 which implements the Convention on the international Trade in Endangered Species of Fauna and Flora (CITES) in the European Union.

In conclusion, any native species (or European species) held by 'Celtic Reptile(s) & Amphibian(s)' is assured to be legally obtained. Also, any species sold by 'Celtic Reptile(s) & Amphibian(s)' are done so in legal terms under studying the aforementioned legislation, The wildlife and Countryside Act 1981.

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—

- (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
- (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions

and in this subsection "the relevant provisions" means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975

[F44] (4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—

- (a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;
- (b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
- (c) he obstructs access to any structure or place which any such animal uses for shelter or protection.]

[F45] (4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—

- (a) a dolphin or whale (cetacea), or
- (b) a basking shark (cetorhinus maximus),

he shall be guilty of an offence.]

(5) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

Relevant extract from

The Wildlife and Countryside Act 1981

All animals owned by 'Celtic Reptile(s) & Amphibian(s)' are exempt as they are captive bred and therefore legal.

The term 'wild' here refers to an animal living outside of an enclosure, thus rendering animals held by 'Celtic Reptile(s) & Amphibian(s)' exempt from these subsections.

Any animals which would require proof of captive breeding (see schedule 5 list) have the required and confirmatory documents to indicate that they are captive bred from legally obtained parents.

Animals listed under

Schedule 5 of The Wildlife and Countryside Act 1981

Reptiles

<i>Anguis fragilis</i>	Slow worm	Killing & injuring S.9(1) (part); sale S.9(5)	S.9(5) - 1981; S.9(1) - 1988
<i>Cheloniidae and Dermochelyidae</i>	All turtles		1988
<i>Coronella austriaca</i>	Smooth snake		1981
<i>Lacerta agilis</i>	Sand lizard		1981
<i>Lacerta vivipara</i>	Viviparous lizard	Killing & injuring S.9(1) (part); sale S.9(5)	S.9(5) - 1981; S.9(1) - 1988
<i>Natrix natrix</i>	Grass snake	Killing & injuring S.9(1) (part); sale S.9(5)	S.9(5) - 1981; S.9(1) - 1988
<i>Vipera berus</i>	Adder	Killing & injuring S.9(1) (part); sale S.9(5)	S.9(5) - 1981; S.9(1) - 1991

Amphibians

<i>Bufo bufo</i>	Common toad	Sale only S.9(5)	1981
<i>Bufo calamita</i>	Natterjack toad		1981
<i>Rana temporaria</i>	Common frog	Sale only S.9(5)	1981
<i>Triturus cristatus</i>	Warty (great crested) newt		1981
<i>Triturus helveticus</i>	Palmate newt	Sale only S.9(5)	1981
<i>Triturus vulgaris</i>	Smooth newt	Sale only S.9(5)	1981

- Can be legally obtained by wild capture
- Can be legally sold *if* captive bred
- **Cannot** be intentionally harmed or killed

- **Cannot** be legally obtained by wild capture (without licence)
- Can be legally sold *if* captive bred
- **Cannot** be intentionally harmed or killed or **disturbed** (note; disturbance can occur with a licence)
- **Sc** proof of captive breeding is supplied/needed

Note the five species of marine turtle are protected by the Wildlife and Countryside act, although the legislation is not deemed relevant to the interests of 'Celtic Reptile(s) & amphibian(s)' as none of these species are kept under our captivity. Adders require a 'Dangerous wild animals' license to own.