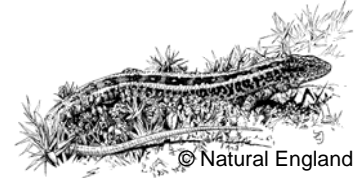


## REPTILES



### SUMMARY

- **There are six terrestrial reptile species native to Britain, three snakes (adder, grass snake, smooth snake) and three lizards (common lizard, sand lizard, slow worm), all of which are found in Dorset.**
- **All six species are protected under UK law, with the sand lizard and smooth snake afforded additional protection under European Law.**
- **Dry heathlands are the best natural habitats for the full range of British reptiles, but other semi-natural areas such as road verges, railway embankments, sea walls, brownfield sites, allotments, parts of golf course and hedgerows are also likely to be suitable.**
- **Activities potentially harmful to reptiles include; clearing land, digging foundations, cutting vegetation to a low height, driving machinery over sensitive areas, removing rubble, wood piles and other debris.**
- **Where reptiles are or may be present, it is recommended that you contact the Natural Environment Team, and/or check with DERC<sup>1</sup>, before you carry out any work. A survey and a licence may be required.**

### BACKGROUND

#### Legal Protection

There are two different levels of legal protection for reptiles in the UK. The adder, common lizard, grass snake and slow worm are protected from killing and injuring under Schedule 5 (Section 9) and of the Wildlife and Countryside Act 1981<sup>2</sup> (as amended).

The sand lizard and smooth snake and their respective habitats are fully protected under Schedule 5 (Section 9) of the Wildlife and Countryside Act 1981 (as amended) and under Conservation of Habitats & Species Regulations 2010<sup>3</sup>. It is illegal to kill, injure, capture, handle or disturb them, and the places they use for breeding, resting, shelter and protection are protected from being damaged or destroyed. It is also illegal to obstruct these animals from using such areas.

The sand lizard is also identified as a Priority Species in the UK Biodiversity Action Plan<sup>4</sup>.

#### Reptile Ecology

Reptiles are found in a wide variety of habitats and require a varied habitat structure that provides shelter, a range of shady and sunny spots, and frost-free areas to spend the winter. Being cold-blooded, reptiles need warm sites for basking to raise their body temperature. The open, dry nature of heathlands and chalk and acid grasslands often provide these basking areas, as well as plenty of cover and food, and are the habitats with which most reptiles are commonly associated. The exception is the grass snake, which prefers wetland habitats. Most reptiles hibernate between mid-October and March, when weather conditions are unsuitable for activity.

Snakes can occupy fairly large ranges, sometimes covering several kilometres during the course of a year. They often move from drier habitats to wetter ones for the summer months, and return to the same hibernation areas each winter. Lizards have smaller ranges than snakes, normally staying close to small landscape features such as embankments. Common lizards and sand lizards spend much time basking, while slow worms are often hidden in vegetation, under refuges or underground.

## Timing

The timing of a reptile survey is crucial because reptile activity is highly dependent on the weather. The best time to survey for reptiles is generally April – June and sometimes again in September, although this varies between species. Timing of work depends on what species is/are present on site. Please contact the Natural Environment Team for further information.

## Work

The law recognises that it is sometimes necessary to carry out work that may affect sand lizards and smooth snakes or their habitats. It is not the intention of the law to prevent all activity in areas used by reptiles. However, legal protection does require that due attention is paid to the presence of reptiles and that appropriate actions are taken to safeguard the places they use for shelter or protection or breeding.

European Protected Species (EPS) licences are usually needed when a project involves disturbing or destroying key habitat features. Some forms of survey also need a licence. Licences cannot be granted retrospectively and are only issued to people considered competent to do the work. Several months may be required for preparing and considering Natural England EPS licence applications.

If sand lizards or smooth snakes are found on site once work has commenced, work must stop immediately and Natural England or the Natural Environment Team contacted.

For the adder, grass snake, slow worm and common lizard, you do not need a licence to capture or disturb them, or to damage their habitats. However, the reptiles themselves are still protected, so there is a risk you will commit offences if damaging habitats causes harm to reptiles.

## Defences

Wildlife & Countryside Act 1981: Section 10(3)(c) – A person is not guilty of an offence under Section 9, if they can show that the act was the incidental result of a lawful operation and could not have been reasonably avoided. This defence has now been removed from the Regulations.

This means that those carrying out activities that cause low level disturbance may be able to rely on the defence under the Wildlife & Countryside Act 1981 or may decide to obtain a licence. However, it is expected that enforcement action in respect of more serious disturbance would be brought under the Habitats & Species Regulations 2010, where such a defence is longer available.

For further information and advice please contact the Natural Environment Team.

## Fines

The maximum penalty for each offence in the Magistrates' Court is a Level 5 (up to £5000) and/or six months imprisonment. In addition, items used to commit the offence (e.g. vehicles) may be forfeited.

## Other considerations

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation (2005) states that 'in taking decisions, local planning authorities should ensure that appropriate weight is attached to .... protected species.....' and the accompanying Circular 06/05 states that 'the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat'. For European protected species further strict provisions apply, to which planning authorities must have regard.

## Definitions

<sup>1</sup> DERC - Dorset Environmental Records Centre - [www.derc.org.uk](http://www.derc.org.uk) – T: 01305 225081

<sup>2</sup> The Wildlife and Countryside Act 1981 (as amended) transposes into UK law the Convention on the Conservation of European Wildlife and Natural Habitats (commonly the 'Bern Convention').

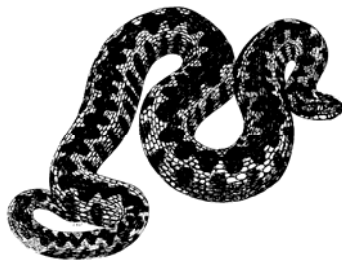
<sup>3</sup> The Conservation of Habitats & Species Regulations 2010 transposes into UK law EC Directive 92/43/EEC.

<sup>4</sup> Biodiversity: The UK Action Plan (1994). HMSO. CM 2428.

<sup>5</sup> Natural England is the appropriate authority for determining licence applications for works associated with development. Three tests must be satisfied before Natural England can issue a licence under Regulation 44(2) (e) to permit otherwise prohibited acts:

- (i) Regulation 44(2)(e) states that licences may be granted by Natural England “*to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*”
- (ii) Regulation 44(3) (a) states that a licence may not be granted unless Natural England is satisfied “*that there is a no satisfactory alternative.*”
- (iii) Under Regulation 44(3) (b) a licence cannot be issued unless Natural England is satisfied that the action proposed “*will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*”

<sup>5</sup> Amphibian & Reptile Conservation - is a non-government organisation whose primary aim is to safeguard Britain's threatened herpetofauna (amphibians and reptiles).



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For more information please contact: The Natural Environment Team: 01305 224290 Email: [net@dorsetcc.gov.uk](mailto:net@dorsetcc.gov.uk) or Natural England: 0300 060 2570 or Amphibian & Reptile Conservation<sup>6</sup>: 01202 391319 Email: [enquiries@arc-trust.org](mailto:enquiries@arc-trust.org).