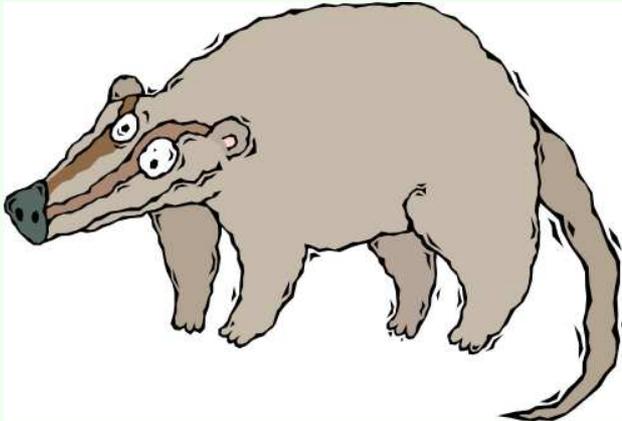


**Take Heed of  
THE BADGERS ACT 1992**

**“RAT AND MOLE BREACH THE PEACE”**



*“Who is it this time, disturbing people on such a night...”<sup>1</sup>*  
Badger complains, when Rat and Mole lose their way in the snow, and beat on his door with a stick.

<sup>1</sup>Wind in the Willows

**Penalty for disturbing a badger**

Whilst such exploitation from non-human neighbours, is unlikely to lead to prosecution, unauthorised human contact can result in severe penalties. Fines of up to £5,000 and a term of 6 months in prison for each offence are a deterrent against disturbing badgers without a Licence.

**Powerful adversary and expert excavator**

Although badger-baiting with dogs is outlawed, this barbaric activity still occurs illegally. The attraction to a gambling sub-culture of course, is betting on the badgers formidable reputation strength and fighting-back ability. A lower jaw which is articulated, like a hinge into the upper jaw, and cannot be separated even in the skeleton; impressive, interlocking, canine teeth, and formidable head musculature, connecting the lower jaw to a huge bony epi-cranial ridge give considerable crushing advantage to jaws which can be opened to the full width of the animal’s head, 75mm or so.

**Bern directive 1979**

These characteristics, the long cylindrical body, well developed, short, muscular legs and sharp claws, make the Badger a veritable adversary to anything that tries to attack it; furthermore, the creature is an expert burrower which makes its home underground.

Human persecution of the European badger (*Meles meles*) was causing such a decline in numbers, that in September 1979 at the Bern Convention on the Conservation of European Wildlife and Natural Habitats, it was included as a ‘protected species’ within the carnivore group, together with martens, stoats and weasels.

**Badger baiting and protective legislation**

The Bern Convention 1979, which included all the ‘member states of the Council of Europe’ decreed at that time, that ...” *each contracting Party shall take steps to promote national policies for the conservation of wild flora, wild fauna and natural habitats...*”

Badger baiting, as indeed all organised fights between animals, became illegal under the *Protection of Animals Act 1911* (as amended), but 1973 saw the introduction of *The Badgers Act* - for the first time introducing a law specifically for protection of badgers. *The Badgers Act 1992* updated and toughened legislation by making it an offence not only to kill or injure, or to have control of anything derived from, a badger, but to damage its sett. Also making illegal the act of ‘disturbing a badger’ when it is occupying its sett.

**Applying for a licence to disturb**

An application for a licence to disturb or to work with badgers can be made to *Natural England* [Form WML A01 (02/09)], but will only be granted if three specific tests are satisfied:

<p><b>Procedural requirements - The Test</b></p>	<ol style="list-style-type: none"> <li>1. <b>When a licence is required</b> to resolve a situation where the badgers or their sett are causing, or are likely to cause, a serious problem or are preventing legitimate operations;</li> <li>2. <b>Where there is no alternative</b> to issuing a licence (e.g. <u>other methods of managing the problem or carrying out the operation have been shown to be ineffective or impractical and are not merely difficult to implement.</u>)</li> <li>3. <b>Where the activity to be licensed is likely to resolve</b> or contribute to resolving the matter for which it has been issued.</li> </ol>
<p><b>Licence limitation</b></p>	<p>Importantly, if the test criteria are satisfied, a licence will normally only be granted for operations within the period July 1st to November 30th, to avoid the breeding season.</p> <p>Obtaining permission to work in the vicinity of, or to interfere with a badger sett, even if the application is made by an authority with statutory powers (Environment Agency, Highways Agency, Water Company etc), can prove time-consuming, or even a fruitless exercise, if there are other available (albeit more-costly) alternatives. Even when a licence is obtained, the specific period in the year for conducting the operation, can prove inconvenient or halt a works programme.</p>
<p><b>Consequence of The Badgers Act on project costs</b></p>	<p>The implication of <i>The Badgers Act 1992</i> can be significant, particularly if a sett is encountered unexpectedly during the course of a project. The presence of workings by badgers has the ability to curtail it, or to dramatically increase cost; not merely by the need to commission an ‘ecological survey’ and the inevitable delay involved, but also by having to adopt an expensive alternative; more so, if a pipeline is involved, and options involve neighbours’ land.</p>
<p><b>“Don’t disturb”</b></p>	<p>The importance of carrying out an ecological survey well in advance of any scheme, particularly for a rural project, should not be underestimated. “<i>Do not disturb</i>” may have little consequence if the notice is ignored, but take heed if it relates to a badger.</p>
<p><b>Useful Guidance</b></p>	<p><b>For useful advice on wildlife, licences and statutory requirements, as well as downloadable forms and applications for licences, see:</b></p> <p><a href="http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/badgers.aspx#licence">http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/badgers.aspx#licence</a></p> <p style="text-align: right;">© R.H. Hulls: March 2010</p>