

EXECUTIVE NOTE

THE WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011 (CONSEQUENTIAL MODIFICATIONS) ORDER 2012

S.S.I. 2012/XXXX

1. The above instrument is made in exercise of the powers conferred by sections 42(1) and (2) of the Wildlife and Natural Environment (Scotland) Act 2011 (the 2011 Act).
2. The instrument is subject to affirmative procedure in terms of section 42(4) of the 2011 Act.

Policy Objectives

3. This Order makes consequential amendments to both primary and secondary legislation in connection with the 2011 Act. The amendments made by the Order are as follows –
 - a) Part 1, paragraph 1, of the Schedule to the Order amends Schedule 9 to the Criminal Procedure (Scotland) Act 1995 (which relates to certificates as to proof of certain routine matters which may be used in criminal proceedings). It amends the list of offences under the Wildlife and Countryside Act 1981 (the 1981 Act) for which a section 16 licence may be issued to include a complete list of the offences as inserted by the 2011 Act.
 - b) Part 1, paragraph 2, of the Schedule to the Order amends section 132(2)(c) of the Marine (Scotland) Act 2010 (the 2010 Act) by including reference to the new offence provisions which have been inserted into the 1981 Act by the 2011 Act. This ensures that these new offences fall within the definition of “marine conservation and nature conservation legislation” for the purposes of section 132(1) of the 2010 Act.
 - c) Part 2, paragraphs 3 and 5, of the Schedule to the Order amend the definition of ‘game’ in both the Marketing Development Scheme (Specification of Activities) Order 1994 and the Food Industry Development Scheme (Specification of Activities) Order 1997. The term was previously defined by reference to the Poaching Prevention Act 1862 which Part 2 of the Schedule to the 2011 Act repeals but is now defined by reference to Part 1 of Schedule 2, and Schedule 6A, to the 1981 Act.
 - d) Part 2, paragraph 4, of the Schedule to the Order updates the references to the 1981 Act in regulation 101A of the Conservation (Natural Habitats etc) Regulations 1994 to maintain consistency with changes made by the 2011 Act.
 - e) Part 2, paragraph 6, of the Schedule to the Order amends the definition of “General Licence” in Schedule 1 to the Rural Developments Contracts (Rural Priorities) (Scotland) Regulations 2008 by inserting a reference to Scottish Natural Heritage and a local authority. In terms of section 16A (as inserted by section 18(3) of the 2011

Act), the Scottish Ministers licensing powers under section 16 of the 1981 Act can now be delegated to Scottish Natural Heritage or Local Authorities.

- f) Part 3 of the Schedule to the Order repeals the references to the Night Poaching Act 1828, the Game (Scotland) Act 1832 and the Poaching Prevention Act 1862 in Schedule 5 to the Criminal Procedure (Scotland) Act 1995 (the 1995 Act) and also the reference to the Night Poaching Act 1828 in Schedule 10 to the 1995 Act . These three Acts are repealed by Part 2 of the Schedule to the 2011 Act and the references are therefore no longer required.
- g) Part 4 of the Schedule to the Order revokes The Snares (Scotland) Order 2010 (the 2010 Order) which set requirements about snare stops and anchors and checks of whether snares are free running. Section 13 of the 2011 Act, as well as setting new requirements in relation to snaring (training, identification numbers and tagging), also amends the 1981 Act to replace the provisions in the 2010 Order. The provisions in the 1981 therefore supersede the provisions contained in the 2010 Order.

Consultation

- 4. No consultation was required for these amendments.

Equalities Impact Assessments

- 5. There are no equalities impact issues.

Financial Effects

- 6. A Regulatory Impact Assessment was included in the consultation for the 2011 Act. There are no financial effects related to the amendments this Order will make.

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