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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order commences provisions of the Wildlife and Natural Environment (Scotland) Act 2011 (“the 2011 Act”), so far as not already in force.

Article 2 brings the following provisions of the 2011 Act into force on 2nd July 2012—

- (a) section 14 so far as not already in force, which—
  - (i) amends section 14 (introduction of new species etc.) of the 1981 Act in relation to the offence of releasing an animal, allowing an animal to escape from captivity and causing an animal to be at a place outwith its native range and the offence of planting, or causing to grow, any plant in the wild at a place outwith its native range;
  - (ii) inserts new section 14ZC into the 1981 Act which makes provision restricting the keeping of invasive animals and plants;
  - (iii) amends section 14A (prohibition on sale etc. of certain animals or plants) of the 1981 Act by amending the powers of the Scottish Ministers to make orders to make them exercisable in respect of invasive animals or plants; and
  - (iv) inserts new section 14B into the 1981 Act which enables the Scottish Ministers to require by order certain persons to notify the presence of an invasive animal or plant at a place outwith the native range of the animal or plant;
- (b) section 16 which inserts sections 14D to 14P into the 1981 Act relating to species control orders and in particular who can make them, their content, appeals, review, offences in relation to species control orders, enforcement of operations under species control orders and powers of entry;
- (c) section 17 so far as not already in force, which makes further amendments to the 1981 Act in relation to non-native species etc. and provides—
  - (i) that the keeping measures in new section 14ZC of the 1981 Act do not apply to anything done under and in accordance with a licence granted by the Scottish Ministers under section 16 of the 1981 Act;
  - (ii) penalties on conviction for a keeping, notification or species control order offence;
  - (iii) for the repeal of references to Schedule 9 to the 1981 Act and the repeal of Schedule 9 itself;
  - (iv) for Scottish Natural Heritage to advise or assist any other relevant body carrying out operations under a species control order, or a person authorised to enter premises in connection with an order;
  - (v) that the making of a release, keeping, sale or notification order by the Scottish Ministers can be annulled by the Scottish Parliament; and
  - (vi) that notice of a species control order under section 14G cannot be served by electronic means and that the general rule in the 1981 Act for service of notice on persons who cannot be identified do not apply to notice of a species control order under section 14D;
- (d) section 22 which makes amendments to the 1981 Act in relation to wildlife inspectors so that wildlife inspectors appointed by the Scottish Ministers under section 19ZC of the

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1981 Act are authorised to take enforcement action in respect of the new offences created by the 1981 Act (as inserted by the 2011 Act); and

- (e) section 25 and Part 2 of the schedule to the Act in respect of the repeal of the Destructive Imported Animals Act 1932 (“the 1932 Act”), the Import of Live Fish (Scotland) Act 1978 (“the 1978 Act”), section 38 of the Deer (Scotland) Act 1996 and paragraphs 1 and 2 of the schedule to the Protection of Wild Mammals (Scotland) Act 2002.

Article 3 makes saving and transitional provisions in respect of licences authorising the keeping or release of animals, or the planting of plants, under the 1932 Act and the 1978 Act, and under section 14(1) to (2) of the 1981 Act as it applied before the appointed day. The effect of article 3(1), (2) and (3) is that any licence granted under the law in force prior to the appointed day, remains in effect and is deemed to be a licence granted under section 16(4) of the 1981 Act, as amended. Article 3(4) makes transitional provision in relation to any application for a licence which is not determined by 2 July 2012. Such an application under section 16(4) of the 1981 Act, as amended.

Sections 1, 42 and 43 of the 2011 Act came into force on the date of Royal Assent on 7th April 2011.