

## **EXECUTIVE NOTE**

### **THE WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011 (COMMENCEMENT NO. 4, SAVINGS AND TRANSITIONAL PROVISIONS) ORDER 2012**

**SSI 2012/175(C.16)**

1. The above instrument is made in exercise of the powers conferred by section 43(1) and (2) of the Wildlife and Natural Environment (Scotland) Act 2011 (2011 Act).

#### **Policy Objectives**

2. This instrument forms part of an implementation package, to be laid before Parliament alongside other instruments made pursuant to the provisions relevant to the *Non-native species etc* part of the 2011 Act. Separate Executive Notes have been drafted for each instrument.

#### **Commencement**

3. Article 2 of the Order appoints 2 July 2012 as the day on which the following provisions of the 2011 Act come into force:

- Section 14 so far as not already commenced by the Wildlife and Natural Environment (Scotland) Act 2011 (Commencement No. 3) Order 2012 (the No.3 Order).
- Section 16.
- Section 17 so far as not already commenced by the No. 3 Order .
- Section 22.
- Section 25 and Part 2 of the Schedule to the 2011 Act so far as not already commenced by the Wildlife and Natural Environment (Scotland) Act 2011 (Commencement No. 1) Order 2011.

4. These are the last of the provisions of the 2011 Act to be commenced, although some of the provisions previously commenced are not yet in force.

#### **Savings and transitional provisions**

5. Article 3(1) of the Order maintains the effect of any licences granted under the Destructive Imported Animals Act 1932 (the 1932 Act). It does so by deeming any licence issued under the 1932 Act to be a licence issued under section 16(4) of the 1981 Act in relation to section 14ZC (prohibition on keeping certain species). It also maintains any conditions attached to any such licence which are set out in Regulations made under the 1932 Act (which Regulations are repealed by the Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements)(Scotland) Order 2012 (which is laid alongside this Order) subject to the savings made by this Order.

6. Article 3(2) of the Order maintains the effect of any licences granted under the Import of Live Fish (Scotland) Act 1978 (the 1978 Act). It does so by deeming any licence issued under the 1978 Act to be a licence issued under section 16(4) of the 1981 Act in relation to section 14 (release of an animal) or section 14ZC (prohibition on keeping certain species). Any conditions attached to such licences are set out in the licences themselves, not in separate Regulations as they are under the 1932 Act, therefore there is no need to maintain conditions beyond maintaining the effect of the licence itself.

7. Article 3(3) of the Order maintains the effect of any licence granted under section 16(4) of the Wildlife and Countryside Act 1981 (the 1981 Act) as it related to section 14(1) to (2) of the 1981 Act (prior to the 2011 Act changes coming into force). It does so by deeming them to be licences granted under section 16(4) of the 1981 Act in relation to section 14 of that Act (as amended by the 2011 Act). Any conditions attached to such licences are set out in the licences themselves, not in separate Regulations as they are under the 1932 Act, therefore there is no need to maintain conditions beyond maintaining the effect of the licence itself.

8. Article 3(4) of the Order provides that any application for a licence under the 1932 Act, the 1978 Act or section 16(4) in relation to section 14(1) to (2) of the 1981 Act (prior to amendment by the 2011 Act), if not determined by 2 July 2012, are to be treated as applications for licences under section 16(4) of the 1981 Act (as amended).

## **Consultation**

9. A public consultation was carried out for the Wildlife and Natural Environment Bill in 2010.

## **Impacts**

10. There are no equalities impact issues to consider. A Regulatory Impact Assessment was included in the consultation for the 2011 Act outlining the costs associated with non-native species issues.

**Directorate for Environment and Forestry**  
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