



# Wildlife and Natural Environment (Scotland) Act 2011

2011 asp 6

## PART 2

### WILDLIFE UNDER THE 1981 ACT

#### *Species licences*

#### **18 Licences under the 1981 Act**

- (1) The 1981 Act is amended as follows.
- (2) In section 16 (power to grant licences)—
  - (a) in subsection (3)—
    - (i) the word “or” immediately after paragraph (g) is repealed,
    - (ii) after paragraph (h) insert “; or  
(i) for any other social, economic or environmental purpose,”,
  - (b) after subsection (3) insert—

“(3A) The appropriate authority shall not grant a licence under subsection (3)(i) unless it is satisfied—

    - (a) that undertaking the conduct authorised by the licence will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and
    - (b) that there is no other satisfactory solution.”,
  - (c) subsection (8B) is repealed,
  - (d) for subsections (9) to (9ZC) substitute—

“(9) In this section “the appropriate authority” means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 16A.

(9ZA) The Scottish Ministers must consult Scottish Natural Heritage before granting or modifying a licence under any of subsections (1) to (5).

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*Status: This is the original version (as it was originally enacted).*

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(9ZB) Subsection (9ZA) does not apply in relation to licences granted under—

- (a) paragraph (i), (j) or (k) of subsection (1);
  - (b) paragraph (f), (g) or (h) of subsection (3); or
  - (c) paragraph (c) of subsection (4).”,
- (e) subsection (13) is repealed.

(3) After that section insert—

**“16A Delegation of licence-granting power: Scotland**

- (1) The Scottish Ministers may delegate their functions in relation to licences under section 16 to—
  - (a) Scottish Natural Heritage; or
  - (b) a local authority.
- (2) But a function may be delegated to a local authority only in so far as it relates to—
  - (a) the development of land within the meaning of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8); or
  - (b) the demolition of buildings within the meaning of section 55 of the Building (Scotland) Act 2003 (asp 8).
- (3) A delegation may be, to any degree, general or specific and may in particular relate to—
  - (a) a particular type of bird, other animal or plant;
  - (b) a particular licence or type of licence;
  - (c) a particular area.
- (4) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type that were granted before the delegation.
- (5) A delegation to—
  - (a) Scottish Natural Heritage under subsection (1)(a) is to be made by written direction;
  - (b) a local authority under subsection (1)(b) is to be made by order.
- (6) A local authority which is delegated a function under subsection (1)(b) must, before granting or modifying a licence, consult Scottish Natural Heritage.
- (7) The Scottish Ministers may modify or revoke a direction under subsection (5) (a).
- (8) Where a direction or order under subsection (5) is revoked, any existing licence granted under the direction or order continues to have effect (unless the revoking direction or order provides otherwise).”.

(4) In section 26 (regulations, orders, notices etc.)—

- (a) in subsection (4)—
  - (i) after paragraph (a) insert—

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*Status: This is the original version (as it was originally enacted).*

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- “(aa) in the case of an order under section 16A(5)(b), shall consult Scottish Natural Heritage;”,
- (ii) in paragraph (b), after “14B,” (as inserted by section 17(6)(b)(iii)) insert “16A(5)(b) or”,
- (iii) in paragraph (c) after “may,” insert “except in the case of an order under section 16A(5)(b),”,
- (b) in subsection (5) after “Part” insert “, other than an order under section 16A(5)(b),”.

## **19 Amendment of Schedule 6 to the 1981 Act**

In Schedule 6 to the 1981 Act (animals which may not be killed or taken by certain methods) the entries relating to the animals with the following common names are repealed—

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Bats, Horseshoe (all species),

Bats, Typical (all species),

Cat, Wild,

Dolphin, Bottle-nosed,

Dolphin, Common,

Dormice (all species),

Marten, Pine,

Otter, Common,

Polecat,

Porpoise, Harbour (otherwise known as Common Porpoise).

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