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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 433 (C. 37)**

**WILDLIFE**

**The Wildlife and Natural Environment (Scotland)  
Act 2011 (Commencement No. 2) Order 2011**

*Made - - - - 6th December 2011*  
*Laid before the Scottish*  
*Parliament - - - - 8th December 2011*  
*Coming into force - - 20th December 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 43(1) and (2)(a) of the Wildlife and Natural Environment (Scotland) Act 2011<sup>(1)</sup>.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Wildlife and Natural Environment (Scotland) Act 2011 (Commencement No. 2) Order 2011 and comes into force on 20th December 2011.

(2) In this Order—

- (a) “the 1981 Act” means the Wildlife and Countryside Act 1981<sup>(2)</sup>; and
- (b) “the 2011 Act” means the Wildlife and Natural Environment (Scotland) Act 2011.

**Appointed days**

2.—(1) 1st January 2012 is the day appointed for the coming into force of the following provisions of the 2011 Act:—

- (a) section 4;
- (b) sections 6, 8, 9 and 12 so far as not already in force, and section 11;
- (c) section 13 as follows:—
  - (i) subsections (1) and (2);
  - (ii) subsection (3), so far as—
    - (aa) is necessary to enable the Scottish Ministers to make provision by order under sections 11A(8) and 11E(1)(f) of the 1981 Act;
    - (bb) it inserts sections 11B, 11C and 11F into the 1981 Act; and

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(1) 2011 asp 6.  
(2) 1981 c.69.

- (iii) subsection (4);
  - (d) section 15;
  - (e) sections 21, 23 and 24;
  - (f) sections 26 to 28 and 30 to 32;
  - (g) section 35;
  - (h) section 36; and
  - (i) section 41.
- (2) 2nd January 2012 is the day appointed for the coming into force of section 20 of the 2011 Act.
- (3) 1st April 2012 is the day appointed for the coming into force of section 29 of the 2011 Act.
- (4) 1st April 2013 is the day appointed for the coming into force of section 13 of the 2011 Act, so far as not already in force on that day.

St Andrew's House,  
Edinburgh  
6th December 2011

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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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”).

Article 2 appoints days for the coming into force of the provisions in the 2011 Act—

- (a) repealing section 3 of the Wildlife and Countryside Act 1981 (c.69) (“the 1981 Act”), which provided for areas of special protection for wild birds (section 4);
- (b) relating to the insertion of new sections 10A and 10B (protection of wild hares etc.) and 12YA (relaxation of night shooting of hares and rabbits) into the 1981 Act (sections 6, 8, 9, 11 and 12);
- (c) relating to the—
  - (i) the placing of, and fitting of stops to, snares (section 13(2));
  - (ii) powers enabling the Scottish Ministers to make provision by order in respect of identification numbers and record keeping (section 13(3), in relation to new sections 11A(8) and 11E(1)(f) of the 1981 Act);
  - (iii) insertion of new sections 11B (snares: duty to inspect), 11C (snares: authorisation from landowners etc.) and 11F (snaring: review and report to the Scottish Parliament) (section 13(3), in part); and
  - (iv) granting of licences under section 16 of the 1981 Act in respect of matters covered by new section 11C of that Act (section 13(4));
- (d) providing for the insertion of new section 14C (non-native species etc.: code of practice) into the 1981 Act (section 15);
- (e) relating to the—
  - (i) creation of new offences of knowingly causing or permitting acts made unlawful by sections 6 (sale etc. of live or dead wild birds, eggs etc.), 7 (registration etc. of certain captive birds) and 15A (possession of pesticides) of the 1981 Act (section 21);
  - (ii) insertion of new section 69A (offences by Scottish partnerships etc.) into the 1981 Act (section 23); and
  - (iii) liability for certain wild bird offences committed by others, and providing for the insertion of new sections 18A (vicarious liability for certain offences by employee or agent) and 18B (liability where securing services through another) into the 1981 Act (section 24);
- (f) relating to—
  - (i) deer management (section 26);
  - (ii) the insertion of a new section 5A (code of practice on deer management) into the Deer (Scotland) Act 1996 (“the 1996 Act”) (section 27);
  - (iii) further provision for deer control agreements and control schemes under the 1996 Act (section 28);
  - (iv) competence to shoot deer, and providing for the insertion of new sections 17A (register of persons competent to shoot deer) and 17B (review of competence etc. by Scottish Natural Heritage) into the 1996 Act (section 30);

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- (v) the killing of deer that are starving and have no reasonable chance of recovering (section 31); and
- (vi) offences under the 1996 Act by bodies corporate, and providing for the insertion of new section 29A (offences by Scottish partnerships) into that Act (section 32); and
- (g) providing for the insertion of new section 34A (offences by bodies corporate etc.) into the Hill Farming Act 1946 (“the 1946 Act”) (section 35);
- (h) relating to compliance by public bodies with their biodiversity duty under the Nature Conservation (Scotland) Act 2004, and providing for the insertion of a new section 2A (reports on compliance with biodiversity duty) into that Act (section 36);
- (i) providing for the extent to which enactments modified by the 2011 Act bind the Crown (section 41), and in particular inserting a—
  - (i) new section 27A (crown application: sections 23 to 27) into the 1946 Act;
  - (ii) new section 66B (application of part 1 to the Crown: Scotland) into the 1981 Act; and
  - (iii) new section 13A (crown application: Scotland) into the Badgers (Scotland) Act 1992;
- (j) providing for reports by the Scottish Ministers to the Scottish Parliament on wildlife crime, and the insertion of a new section 26B (annual report on wildlife crime) into the 1981 Act (section 20);
- (k) relating to the regulation of close seasons for deer under the 1996 Act (section 29); and
- (l) relating to the commencement in full of the snaring provisions, and providing in particular for the insertion of new sections 11A (snare training, identification numbers, tags etc), 11D (snares: presumption arising from identification number) and 11E (snares: record keeping) into the 1981 Act (section 13(3) and (5)).

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

#### NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 2	29th June 2011	2011/279(3)
Section 3	29th June 2011	2011/279
Section 5	29th June 2011	2011/279
Section 6(2) and (5), in part	29th June 2011	2011/279
Section 7	29th June 2011	2011/279
Section 8, in part	29th June 2011	2011/279
Section 9, in part	29th June 2011	2011/279
Section 10	29th June 2011	2011/279
Section 12, in part	29th June 2011	2011/279
Section 18	29th June 2011	2011/279

(3) As amended by S.S.I. 2011/287.

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 19	29th June 2011	<a href="#">2011/279</a>
Section 25, in part	29th June 2011	<a href="#">2011/279</a>
Section 33	29th June 2011	<a href="#">2011/279</a>
Section 37	29th June 2011	<a href="#">2011/279</a>
Section 38	29th June 2011	<a href="#">2011/279</a>
Section 39	29th June 2011	<a href="#">2011/279</a>
Section 40	29th June 2011	<a href="#">2011/279</a>
Section 34	1st August 2011	<a href="#">2011/279</a>