

WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Part 2 – Wildlife under the 1981 Act

Section 17 – Non-native species etc.: further provision

139. **Section 17** of the Act amends the 1981 Act in connection with the changes made to that Act by sections 15 and 16 of the Act.
140. Subsection (2) has the effect that the keeping measures in inserted 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 that Act.
141. Subsection (3) amends section 21 of the 1981 Act to provide for penalties on conviction for a keeping, notification or species control order offence, and for forfeiture of any animal or plant which is of the same kind as that in respect of which a ‘species’ offence is committed. It provides expressly that the maximum period of imprisonment on summary conviction of an offence under sections 14, 14A and 14ZC is 12 months. That maximum was increased from 6 months to 12 months in respect of sections 14 and 14A by virtue of the ‘gloss’ in section 45 of Criminal Proceedings Etc. (Reform) (Scotland) Act 2007.
142. Subsections (4) and (8) repeal references to Schedule 9 to the 1981 Act and that Schedule respectively.
143. Subsection (5) enables 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.
144. Subsection (6) has the effect that the making of a release, keeping, sale or notification order by the Scottish Ministers can be annulled by the Scottish Parliament. Ministers must consult with Scottish Natural Heritage and other persons before making a release, keeping or sale order.
145. Subsection (7) makes further provision for notice preparatory to, or the making of, a species control order. It has the effect that a 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 notices on persons who cannot be identified do not apply to notice of a species control order under section 14D.