

WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Part 7 – General

Section 41 – Crown application

263. **Section 41** of the Act provides for Crown application in respect of the 1946 Act, the 1981 Act, the 1992 Act, the 1996 Act and the 2004 Act.
264. Subsection (1) provides that modification of enactments made by the Act bind the Crown to the extent the enactments bind the Crown. Subsections (2) to (5) modify the Crown application of all the relevant enactments other than the 2004 Act.
265. Subsection (2) inserts a new section 27A into the 1946 Act. Inserted section 27A provides that sections 23 to 27 (muirburn) of the 1946 Act bind the Crown, and that the Crown cannot be held criminally liable for the offences within these sections.
266. Subsection (3) inserts a new section 66B into the 1981 Act. Inserted section 66B provides that Part 1 of the 1981 Act binds the Crown, provides for the powers in section 14M and 19ZC of the 1981 Act to be exercised in respect of Crown land only with the consent of the appropriate authority as defined in subsection (7), and provides that the Crown cannot be held criminally liable for the offences in Part 1.
267. Subsection (4) inserts a new section 13A into the 1992 Act. Inserted section 13A provides that the 1992 Act binds the Crown, and that the Crown cannot be held criminally liable for the offences in the 1992 Act.
268. Subsection (5) amends section 44 of the 1996 Act, which provides for Crown application. It confirms that the 1996 Act binds the Crown, provides for the powers in section 15 of that Act to be exercised in respect of Crown land only with the consent of the appropriate authority as defined in new section 44(7), and provides that the Crown cannot be held criminally liable for offences in the 1996 Act.

Section 42 – Ancillary provision

269. **Section 42** of the Act enables the Scottish Ministers by order to make incidental or consequential provision in respect of any provision in the Act.. An order will be subject to negative procedure, unless it adds to, replaces or omits the text of an Act.

Section 43 – Commencement and short title

270. **Section 43** of the Act provides for Ministers to commence by order the majority of the provisions in the Bill. Sections 1, 42 and 43 come into force upon Royal Assent. An order under this section is not subject to any procedure.