

WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Part 2 – Wildlife under the 1981 Act

Section 13 – Snares

73. [Section 13](#) deals with the use of snares.
74. As well as setting new requirements in relation to snaring, the amendments replace provisions in the [Snares \(Scotland\) Order 2010 \(S.S.I 2010/8\)](#) (the “Snares Order”), which set requirements about snare stops and anchors and checks of whether snares are free-running. The amendments also re-enact some existing provisions from section 11 into new sections 11B and 11C without changing their effect. These relate to inspecting snares and obtaining authorisation from landowners.

Subsection (2)

75. Subsection (2) amends section 11 of the 1981 Act to insert a new subsection (1A).
76. Section 11(1A) of the 1981 Act sets out circumstances in which a snare is to be considered to be of a nature or set in a way calculated to cause unnecessary suffering for the purpose of the offence in section 11(1)(aa) of that Act. It requires snares to be fitted with stops (subsection (1A)(a) and (b)), attached to the ground or an object to prevent them being dragged (subsection (1A)(c)) and not set in a place which is likely to cause an animal to become suspended or drown (subsection (1A)(d)).
77. Section 11(1A) of the 1981 Act re-enacts with modifications articles 4 to 6 of the Snares Order. In particular, the requirement in the Snares Order to fit stops on snares intended to catch foxes and hares is extended to all animals.
78. Subsection (2) also repeals section 11(3) to (3B) and (3D) of the 1981 Act. Those provisions are re-enacted by new sections 11B and 11C of that Act as inserted by the Act.

Subsection (3)

79. Subsection (3) inserts new sections 11A to 11F into that Act.
Snares: training, identification numbers, tags etc. - inserted section 11A of the 1981 Act
80. Section 11A of the 1981 Act provides for persons using a snare to have an identification number, to be trained in the setting and use of snares, and to attach identification tags to snares.
81. Subsections (1) and (5) provides for any person who sets a snare to have an identification number, and for failure to do so is an offence. Such numbers must be

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Act 2011 (asp 6) which received Royal Assent on 7 April 2011*

obtained from the police (subsections (3) and (4)), and can only be issued to persons who have been trained to set snares and on the circumstances in which the setting of snares is an appropriate method of predator control (subsection (4)(b)).

82. Subsections (2)(a) and (b) and (7)(a) provide for identification numbers to be shown on tags, which must be attached to snare. Tags must also indicate whether a snare is intended to catch brown hares or rabbits, or foxes (subsection (2)(c)).

83. Subsection (6) provides that it is an offence to set or use a snare without a compliant tag.

84. Subsection (8) enables the Scottish Ministers to specify training requirements and other elements of the identification number and tagging regime by order subject to annulment by the Scottish Parliament (see section 26(2) of the 1981 Act.

Snares: duty to inspect etc. - inserted section 11B of the 1981 Act

85. Section 11B of the 1981 Act moves the requirements in relation to animals caught in snares from section 11(3) to (3B) of the 1981 Act but does not alter their effect.

86. Subsection (1) requires a person who sets a snare to ensure that it is inspected at least every 24 hours to see whether there is an animal caught in the snare, and whether the snare is free-running (as defined in subsection (4)). If an animal is found to be caught then it must be released or removed. If the snare is found not to be free-running then it must be removed or mended to make it free-running.

87. Subsection (3) provides that it is an offence to fail to comply with these requirements.

88. The requirements in relation to whether the snare is free-running re-enact with modifications article 2 of the Snares Order.

Snares: authorisation from landowners etc. - inserted section 11C of the 1981 Act .

89. Section 11C of the 1981 Act provides that it is an offence for a person to set a snare, or have a snare in their possession, on land without permission of the owner or occupier of the land. The Act moves this provision from section 11(3D) of the 1981 Act but does not alter its effect.

Snares: presumption arising from identification number - inserted section 11D of the 1981 Act

90. Section 11D of the 1981 Act creates a presumption that the identification number appearing on a tag fitted to a snare is that of the person who set the snare. This applies to all snaring offences under the 1981 Act.

Snares: record keeping. - inserted section 11E of the 1981 Act

91. Section 11E of the 1981 Act provides for a person with an identification number (see inserted section 11A) to keep a record of their snaring activities, to produce that record to a constable if asked, and for offences in those respects.

Snaring: review etc. - inserted section 11F of the 1981 Act

92. Section 11F of the 1981 Act provides for a review of snaring enactments.

93. Subsections (1), (3) and (4) requires Scottish Ministers to carry out (or secure the carrying out of) a review of the operation and effect of the snaring provisions in and under sections 11 to 11E of the 1981 Act. Scottish Ministers (or any person carrying out the review) must consider whether further legislation is required, and consult those persons and organisations with an interest.

94. Subsections (2) and (5) have the effect that the first review must be carried out by 31 December 2016, with subsequent reviews every 5 years, and subject to the requirement that a report of a review must be laid before Parliament as soon as practicable after the review is carried out.

Subsection (4)

95. Subsection (4) makes a consequential amendment to section 16(3) of the 1981 Act, with the effect that a licence under the 1981 Act can authorise an activity that would be an offence under new section 11C of that Act (authorisation by owner or occupier of land).

Subsection (5)

96. Subsection (5) makes a consequential amendment to section 17 of the 1981 Act, with the effect that it is an offence under that Act to make a false statement for the purpose of obtaining identification number (see inserted section 11A).