

# **WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011**

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## **EXPLANATORY NOTES**

### **THE ACT – COMMENTARY ON SECTIONS**

#### **Part 2 – Wildlife under the 1981 Act**

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

146. **Section 18** of the Act amends section 16 of the 1981 Act, which allows the licensing of activities prohibited under Part 1 of that Act.

##### **Subsection (2)**

147. Subsection (2)(a) and (b) amends section 16(3) and inserts a new section 16(3A) into the 1981 Act. The effect of this is to allow the licensing authority to grant a licence to carry out activities which would otherwise be prohibited in relation to animals and plants protected by Part 1 of the 1981 Act. The licence must be for a social, economic or environmental purpose. Inserted section 16(3A) also requires the licensing authority to be satisfied that the conduct authorised will give rise to or contribute towards social, economic or environmental benefit and that there is no other satisfactory solution.
148. Subsection (2)(c) to (e) amends section 16 of the 1981 Act to provide that the Scottish Ministers are the licensing authority (“the appropriate authority”) for all types of licence under section 16, except where they delegate licensing functions to SNH or a local authority as set out below.

##### **Subsection (3)**

149. Subsection (3) inserts a new section 16A into the 1981 Act.  
Delegation of licence-granting power - inserted section 16A of the 1981 Act
150. Section 16A of the 1981 Act enables Scottish Ministers to delegate any of their licensing function under that section to SNH by direction, or to delegate such a function so far as relating to development or demolition to local authorities, by order subject to negative procedure (see section 26(2) of the 1981 Act).

##### **Subsection (4)**

151. Subsection (4) amends section 26 of the 1981 Act to set consultation requirements and makes other technical provisions in relation to delegations to a local authority under inserted section 16A of the 1981 Act.