
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 425

**The Conservation (Natural Habitats, &c.)
Amendment (No. 2) (Scotland) Regulations 2008**

Regulation 41A

6. For regulation 41A(1) substitute—

“Monitoring incidental capture or killing

41A.—(1) Scottish Natural Heritage must make arrangements in accordance with paragraphs (2) to (5) for monitoring the incidental capture or killing (a “monitoring system”) of animals of the species listed in Annex IV(a) to the Habitats Directive.

(2) Scottish Natural Heritage must, from time to time, review the monitoring system and, if they think it appropriate, revise it.

(3) In light of the information gathered from the monitoring system, Scottish Natural Heritage must—

(a) make arrangements for the carrying out of such research, or

(b) where appropriate, advise the Scottish Ministers on such conservation measures as appears or appear to Scottish Natural Heritage to be necessary to ensure that such incidental capture or killing does not have a significant negative impact on the species in question.

(4) In implementing that monitoring system Scottish Natural Heritage must, in relation to the species of animal listed in Annex IV(a) to the Habitats Directive which are found in Scotland—

(a) identify the risks of incidental capture or killing to which those species are subject, and the activities which give rise to such risks;

(b) maintain a record of instances of incidental capture or killing of animals of those species of which Scottish Natural Heritage is aware as a result of the surveillance carried out under regulation 37A, the monitoring carried out under this regulation, or otherwise;

(c) assess to what extent monitoring of incidental capture or killing is needed, having regard to—

(i) the risks identified under sub-paragraph (a);

(ii) the instances of incidental capture or killing recorded under sub-paragraph (b);

(iii) whether the species is a priority species; and

(iv) the conservation status of the species; and

(d) ensure that monitoring of incidental capture or killing is carried out.

- (5) Monitoring for the purposes of this regulation may be carried out by—
- (a) Scottish Natural Heritage; or
 - (b) any other body or person—
 - (i) pursuant to an agreement with Scottish Natural Heritage, provided that Scottish Natural Heritage is satisfied as to the standards and methods of monitoring used by that body or person; or
 - (ii) as a condition of a licence or other authorisation granted by a competent authority.
- (6) The Scottish Ministers may, from time to time, give directions to Scottish Natural Heritage as to the exercise of its functions under paragraphs (1) to (5).”