
EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences section 14 of the Wildlife and Natural Environment (Scotland) Act 2011 (“the 2011 Act”), so far as is necessary to enable the Scottish Ministers to make provision by Order. It also commences certain provisions in section 17 of the 2011 Act.

Article 2(a) brings the following subsections of section 14 (non-native species etc.) into force on 1st May 2012:—

- (a) subsection (2)(a) relating to the powers enabling the Scottish Ministers to make provision by Order specifying—
 - (i) types of animal which it is an offence for a person to release or allow to escape from captivity (new section 14(1)(a)(ii) and 14(2D) of the 1981 Act);
 - (ii) other types of animals to which the offence provision in section 14(1)(a)(i) or (1)(b) does not apply (new section 14(2B)(a) and 14(2D) of the 1981 Act);
 - (iii) types of plants to which the offence provision in section 14(2) (planting or causing to grow any plant in the wild at a place outwith its native range) does not apply (new section 14(2B)(b) and 14(2D) of the 1981 Act);
 - (iv) a person or conduct (that conduct being undertaken for the purposes of any enactment or authorised by any such enactment) to which the offence in section 14(1) and (2) do not apply (new section 14(2C) and (2D) of the 1981 Act);
- (b) subsection (3) relating to the powers enabling the Scottish Ministers to make provision by order prohibiting the keeping of invasive animals or plants, by specifying the type of animal or plant in the order (new section 14ZC(1) and (2) of the 1981 Act); and
- (c) subsection (5) relating to the powers enabling the Scottish Ministers to make provision by order about the notification of the presence of an invasive animal or invasive plant at any specified place outwith their native range where persons are, or become, aware of the presence of such animals or plants (new section 14B(1), (2), (3) and (4) of the 1981 Act).

Article 2(b) brings the following subsections of section 17 (non-native species: further provision) into force on 1st May 2012:—

- (a) subsection (6)(b)(ii) and (iii) so far as it inserts reference to orders made under section 14, 14ZC and 14B the effect of which is that the provisions in section 26(4)(a) and (b) of the 1981 Act do not apply to such orders; and
- (b) subsection (6)(c) so far as it relates to orders under section 14 and 14ZC, which inserts new subsection (4A) and (4B) into section 26 of the 1981 Act the effect of which is that the Scottish Ministers may only make such orders where they have consulted Scottish Natural Heritage and any other person appearing to them to have an interest in the making of the order (unless the Scottish Ministers consider it necessary to make the order urgently and without consultation in which case the requirement will not apply (new section 4B)).

Sections 1, 42 and 43 of the 2011 Act came into force on the date of Royal Assent on 7th April 2011.