EXECUTIVE NOTE

THE SNARES (TRAINING) (SCOTLAND) (NO. 2) ORDER 2012

S.S.I. 2012/161

The Snares (Training) (Scotland) (No. 2) Order 2012 is made under section 11A(8)(a) and (i) of the Wildlife and Countryside Act 1981 (the 1981 Act). The Order replaces the Snares (Training)(Scotland)Order 2012 which this Order revokes.

The enabling power was commenced for the purpose of making this Order on 1st January 2012 by article 2(1)(c)(ii)(aa) of the Wildlife and Natural Environment (Scotland) Act 2011 (Commencement No. 2) Order 2011 (SSI 2011/433.

The instrument is subject to negative resolution procedure.

Introduction

Following a public consultation on snaring in 2006, the then Minister for Environment, Michael Russell MSP, announced a package of measures to the Scottish Parliament in March 2008 designed to deliver improvements in the animal welfare aspects of the use of snares to control predator and pest species. This package of measures included a proposal that all snare operators should be trained in the use of snares. This Order sets out the detail of the content of snare training courses, the required level of competence and the arrangements for delivering training to snaring operators.

Background

This Order replaces the Snares (Training) (Scotland) Order 2012 (the No.1 Order) which this Order revokes. The Order is in all respects identical to the No.1 Order, except that it -

- adds four more bodies to the list of Approved Bodies in the Schedule to the Order. These are Elmwood College, The North Highland College, Borders College, and the Scottish Agricultural College.

- clarifies the listing of the Scottish Gamekeepers Association Charitable Trust as an approved body in the Schedule to the Order The Subordinate Legislation Committee (SLC) had taken the view that the designation of the Scottish Gamekeepers Association (SGA) which was listed as an approved body in the Schedule to the No. 1 Order was not clear enough to cover the SGA Charitable Trust who are to be responsible for delivering the training. The SLC reported that the No.1 Order was defective in its drafting[1].

[1] http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/50509.aspx

The Order brings forward the snaring training provisions contained in the WANE (Scotland) Act 2011. All users of snares will be required to undertake a snaring training course and produce a valid training certificate when requested to do so. Only when they have completed a training course can they obtain an ID Number and tag from the chief constable of their local police force. It will be an offence to set a snare without displaying a tag on the snare which contains the snaring operator's identification number.

Legislative Background

Snaring is commonly used in Scotland as a means of control for some predator and pest species. Snaring must be carried out in accordance with the requirements set out in section 11 of the 1981 Act.

The Nature Conservation (Scotland) Act 2004 amended section 11 of the 1981 Act to impose a number of restrictions on the use of snares.

Further amendments to the 1981 Act were introduced through the Wildlife and Natural Environment (Scotland) Act 2011 (the 2011 Act). A number of these provisions were commenced on 1st January 2012 through the Wildlife and Natural Environment (Scotland) Act 2011 (Commencement No. 2) Order 2011 (SSI 2011/433), including the enabling power for this Order.

Sub-sections 11A(8)(a) and (i) of the Wildlife and Natural Environment Act 2011 (the 2011 Order) provides that the Scottish Ministers may by Order make provisions as regards –

- When a person has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control; and

- Such other matters in relation to training, etc, as they consider appropriate.

Policy Objectives

The objective of the Scottish Government is to deliver improved compliance with the legislation in the 1981 Act relating to snaring and to ensure that good practice in the use of snares is followed by snaring operators.

It is intended to commence section 13 of the 2011 Act to the extent that it inserts new section 11A into the 1981 Act on 1 January 2013. Following commencement of section 11A it will be an offence for a person to set a snare, unless they have an identification number obtained from the Chief Constable of their local police force (section 11A(1) and (5)). Further, it will be an offence if a person who sets or uses a snare fails to fit a tag on the snare displaying the identification number of the person who set the snare (section 11A(2) and (6)) . The Chief Constable is required to issue an identification number on being satisfied that an applicant has been trained in the setting of snares (section 11A(4)).

The timing of this Order is to ensure that there is sufficient lead-in time for snaring operators to attend a training course and obtain a training certificate before 1 January 2013. A further Order will be made under section 11A(8) of the 1981 Act which will make provision about

identification numbers and tagging and in particular will set out how a chief constable is to be satisfied that an applicant for an identification number has been trained in the setting of snares. The intention is that the chief constable will be so satisfied as regards training when he is presented with a training certificate issued in accordance with the Snares (Training) (Scotland) Order 2012.

Article 3(2) of, and the Schedule to the Order sets out those organisations that are approved by Scottish Ministers to run the training courses and issue the training certificates. These are the Scottish Gamekeepers Association Charitable Trust (SGA), British Association for Shooting and Conservation (BASC), the Game & Wildlife Conservation Trust (GWCT), the Scottish Association for Country Sports (SACS), Elmwood College, The North Highland College, Borders College, and the Scottish Agricultural College.

Article 3(3) of the Order provides that the approved body will only issue a snaring operator with a training certificate, if they can show the approved body that they are competent in certain matters. These matters are listed in article 3(a) to (d) and the person will require to show that they are competent to select an appropriate area for a snare to be set; set a snare in accordance with the law; identify and remedy any defects in the setting and use of a snare; and can set a snare in such a manner, and in such a place, that it is done so in that the use of the snare is consistent with animal welfare and the setting of the snare is an appropriate method of predator control. The approved body may also have regard to previous training undertaken and qualifications obtained when deciding whether or not the person is competent in the matters set out in article 3(3) of the Order (article 3(4)).

The training course consists of a multiple choice questionnaire which covers the law and animal welfare in relation to snaring, and also includes a practical assessment which allows the snaring operator to be judged whether they are competent in setting snares to the required standard.

Article 3(5) of the Order is a deeming provision the purpose of which is to ensure that those snaring operators who have already successfully undertaken a training course delivered by an approved body equivalent to that set out in the Order and have been issued with a training certificate, do not have to have their training certificates reissued. Where the training certificate was issued between 1 May 2010 (when the syllabus of the snaring training courses was agreed and the training courses implemented) and the day before the coming into force of the Order such a training certificate is deemed to be one issued in accordance with article 3 of the Order. This will further ensure that when the Order on identification numbers and tagging is brought forward such certificates will be capable of being used when a snaring operator applies for an identification number from the Chief Constable of their local police force.

Coming into Force

The Order comes into force on 21 June 2012.

Consultation

The Scottish Executive launched a public 'Consultation on Snaring in Scotland' on 27 November 2006 to honour a commitment made during the passage of the Nature Conservation (Scotland) Act 2004 (the "2004 Act").

A number of meetings with bodies with an interest in snaring were conducted at official and Ministerial level during the consultation on Wildlife and Natural Environment Bill. Organisations with an interest in snaring also gave evidence during the passage Wildlife and Natural Environment Bill through Parliament.

Section 26(4)(a) of the 1981 Act requires the Scottish Ministers to give any persons affected by the Order an opportunity to submit objections or representations with respect to the subject matter of the Order. Key stakeholders including the Scottish Gamekeepers Association, the Game & Wildlife Conservation Trust, British Association for Shooting and Conservation, and the Scottish Society for Prevention have provided input into the snaring training course and had the opportunity to comment on the draft Order. The Scottish Society for Prevention of Cruelty to Animals has also provided input into the snaring training course.

Section 26(4)(b) of the 1981 Act requires the Scottish Ministers to consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made. The Scottish Ministers have consulted Scottish Natural Heritage and they are content for the Order to be made.

Directorate for Environment and Forestry
The Scottish Government
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