

Background Note

1. Snaring is currently permitted in Scotland under section 11 of the Wildlife and Countryside Act 1981 as a means of pest control for certain species.

2. 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. A total of 247 valid separate representations were received by the closing date for submissions. Of the responses received, 71 were against a ban and 172 were for an all out banning of snares, the remaining 4 were in favour of limited snaring within a licensing system.

3. Following the consultation, the then Minister for Environment, Michael Russell MSP, announced a package of measures to the Scottish Parliament in March 2008 to deliver the recommendations that were largely based on the findings of the Report of the Independent Working Group on Snares (James Kirkwood et al., 2005) commissioned by DEFRA. Work has been undertaken by the PAW Scotland Legislation, Regulation and Guidance Sub-group to consider the practical implementation of the proposals.

4. The 4 proposals to which this Order relates are

- Snares must be fitted with effective stops to prevent nooses from closing too far.
 - leporid snares should be fitted with a stop 13cm from the running end.
 - fox snares should be fitted with a stop 23cm from the running end.
- The action of each snare must be checked at least once every 24 hours to ensure that it is free running. If it is not free running then it must be removed or repaired.
- All snares that are not staked in place must be fixed with an effective anchor to prevent them being dragged.
- Snares must never be set on or near features that could result in animals becoming fully or partially suspended or drowning.

5. Two other changes to the provisions about snaring under the 1981 Act are currently being considered for the prospective Wildlife and Natural Environment Bill. These are that all snares must be fitted with identification tags, which will allow the authorities to identify their operators, but will not allow identification by casual passers-by, and a snaring qualification course for those wishing to set snares. These proposed changes will be progressed through primary legislation.

Executive Note

The Snares (Scotland) Order 2010

S.S.I. 2010/

The Snares (Scotland) Order 2010 is made in exercise of powers conferred by section 11(3E) and (4A) of the Wildlife and Countryside Act 1981 (“the 1981 Act”). 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 to deliver the recommendations that were largely based on the findings of the Report of the Independent Working Group on Snares (James Kirkwood et al., 2005) commissioned by DEFRA. Work has been undertaken by the PAW Scotland Legislation, Regulation and Guidance Sub-group to consider the practical implementation of the proposals.

This Order sets the following requirements which must be complied with when using snares

- Snares must be fitted with effective stops to prevent nooses from closing too far.
 - leporid snares should be fitted with a stop 13cm from the running end.
 - fox snares should be fitted with a stop 23cm from the running end.

Stops may be crimped on to the wire of the snare or the wire may be knotted. In all cases the stop should prevent the noose from closing beyond the stop when a force of the relevant breaking strain for the type of snare is applied.

- The action of each snare must be checked at least once every 24 hours to ensure that it is free running. If it is not free running then it must be removed or repaired.

This will ensure that the snare is working correctly, in particular that the snare has not become self-locking, which will improve animal welfare.

- A snare must be staked in place or fixed to an effective anchor to prevent the snare being dragged.

This will ensure the operator will be able to locate the snare and quickly release any non-target species. It will also ensure that captured animals do not suffer by dragging the snare and becoming entangled over fences or other objects.

- Snares must not be set in places where it is likely that snared animals could drown or suspend themselves fully or partially. This would cover setting snares on, over or very near to watercourses, ditches or fences. If a snare is set in such a place it will be treated as having been placed in a way calculated to cause unnecessary suffering to animals.

The setting of snares on posts, over water courses, on planks or fences will be prohibited as this can cause unnecessary suffering to the target. Snares set this way could enable entanglement or drowning, e.g. on fences or gates, or on objects spanning watercourses.

Two other changes to the provisions about snaring under the 1981 Act are currently being considered. The first change would require all snares to be fitted with identification tags, which would allow the authorities to identify their operators, but would not allow identification by casual passers-by. The second change would require those wishing to set snares to obtain a snaring qualification. The intention is to progress these changes through the prospective Wildlife and Natural Environment Bill.

Legislative Background

At present, snaring in Scotland is permitted and is commonly used as a means of pest control for some species. A licence would be required in order to snare other species which receive specific statutory protection (for example under the 1981 Act or the Conservation (Natural Habitats, &c.) Regulations 1994). Where snaring is permitted it must be carried out in accordance with the requirements set by 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 usage of snares, including:

- a new offence of setting in possession or otherwise using any self-locking snare;
- a new offence of setting in position or otherwise using any snare calculated to cause unnecessary suffering to any animal;
- a modified offence of setting in position any snare, trap, electrical device or poison which is likely (rather than calculated) to cause injury to animals listed in Schedule 6 of the 1981 Act;
- a change to the requirement to inspect snares at least once every day so that it covers all snares (instead of just those calculated to cause injury) and ensures that no more than 24 hours elapse between any two sequential inspections;
- a new requirement, when carrying out such an inspection, to release or remove any animal caught in the snare whether it is alive or dead. Failure to remove an animal is an offence in its own right and the presence of a dead

animal in any snare may also constitute evidence that the snare has not been inspected ;

- a new offence of possessing a self-locking snare, without reasonable excuse;
- a new offence of selling, offering or exposing for sale, any self-locking snare; and
- two new offences of being in possession of a snare on any land, and of setting a snare on any land where the permission of the owner or occupier of that land has not been obtained.

Coming into Force

The Order comes into force on 11th March 2010.

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 total of 247 valid separate representations were received by the closing date for submissions. Of the responses received, 71 were against a ban and 172 were for an all out banning of snares, the remaining 4 were in favour of limited snaring within a licensing system.

SNH formally responded to the original consultation and have been involved in discussions throughout..

Regulatory Impact Assessment

a) Options (for achieving the policy objective)

Our policy objective is to implement the following four snaring commitments given to the Scottish Parliament in 2008 by Michael Russell which requires changes to secondary legislation:

- Snares must be fitted with effective stops to prevent nooses from closing too far.
 - leporid snares should be fitted with a stop 23cm from the running end.
 - fox snares should be fitted with a stop 13cm from the running end.
- The action of each snare must be checked at least once every 24 hours to ensure that it is free running.
- All snares must be staked in place or fixed with an effective anchor to prevent them being dragged.
- Snares must never be set in places where it is likely that a snared animal could suspend itself fully or partially off the ground or drown. If a snare has been set in such a place it will be treated as having been set in a way calculated to cause unnecessary suffering.

Benefits

The legislation will greatly increase the welfare of animals caught in snares.

Costs

There will be no significant increase in costs to snare operators. The cost of fitting a stop on a snare is negligible.

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 2004 Act. A total of 247 valid separate representations were received by the closing date for submissions. Of the responses received, 71 were against a ban and 172 were for an all out banning of snares, the remaining 4 were in favour of limited snaring within a licensing system.

Following the consultation, the then Minister for Environment, Michael Russell MSP, announced a package of measures to the Scottish Parliament in March 2008 to deliver these snaring policy objectives. These were largely based on the findings of

the Report of the Independent Working Group on Snares (James Kirkwood et al., 2005). Work has been undertaken by the PAW Scotland Legislation, Regulation and Guidance Sub-group to consider the practical implementation of the proposals.

SNH formally responded to the original consultation and have been involved in discussions throughout.

Summary

The Order is being put forward to address the requirements detailed above. The benefits will greatly improve the welfare of those animals that are caught in snares.