

*These notes relate to the Wildlife and Natural Environment (Scotland)
Act 2011 (asp 6) which received Royal Assent on 7 April 2011*

WILDLIFE AND NATURAL ENVIRONMENT (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Part 4 – Other Wildlife Etc.

Section 33 – Protection of badgers

Subsections (6) and (7)

201. Under the 1992 Act as originally enacted, licensing functions were split between SNH and Scottish Ministers based on the reason for granting the licence.
202. Subsection (6) amends section 10 of the 1992 Act to provide that the Scottish Ministers are the licensing authority (“the appropriate authority”) with power to grant a licence for any of the listed reasons, except where they delegate licensing functions to SNH or a local authority as set out below. Before granting a licence, the Scottish Ministers are required to consult SNH.
203. Subsection (7) inserts a new section 10A into the 1992 Act.
Delegation of licence-granting power – inserted section 10A of the 1992 Act
204. Section 10A of the 1992 Act allows Scottish Ministers to delegate any of their licensing functions to SNH by written direction, or certain development functions to a local authority by order subject to negative procedure (see subsections (8) and (9)) following consultation with the local authority, SNH and anyone else affected by the making of the order. If a local authority has been delegated licensing functions, they must consult SNH before granting or modifying a licence.