SCOTTISH STATUTORY INSTRUMENTS

2021 No. 42 (C. 3)

ANIMALS

WILDLIFE

The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (Commencement No. 2) Regulations 2021

Made - - - -	*25th January 2021*
Laid before the Scottish Parliament	*27th January 2021*
Coming into force - -	*1st March 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 22(2) of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020(**a**).

Citation and commencement

1. These Regulations may be cited as the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (Commencement No. 2) Regulations 2021 and come into force on 1 March 2021.

Appointed day

2. 1 March 2021 is the day appointed for the coming into force of section 18 of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020.

BEN MACPHERSON
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
25th January 2021

(**a**) 2020 asp. 14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force section 18 of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 ("the Act"). Regulation 2 appoints 1 March 2021 for the coming into force of that section.

Section 18 of the Act amends the protections for mountain hares under the Wildlife and Countryside Act 1981 ("the 1981 Act"). Section 10A of the 1981 Act makes it an offence to intentionally or recklessly kill, injure or take animals specified under schedule 5A of the 1981 Act at certain times of the year (the close season). Mountain hares were previously listed in schedule 5A and it was an offence to intentionally or recklessly kill, injure or take a mountain hare between 1st March and 31st July in any year, subject to the provisions of Part 1 of the 1981 Act including the exceptions set out in section 10B of that Act.

Section 18 of the Act removes reference to the close season for mountain hares in section 10A(2)(a) of the 1981 Act and moves mountain hares from schedule 5A (animals which are protected in their close season) to schedule 5 (animals which are protected). Under section 9 of the 1981 Act it is an offence, subject to the provisions of Part 1 of that Act, to intentionally or recklessly kill, injure or take any wild animal listed in schedule 5 at any time. The effect of the modifications is to remove the open season, making it an offence to intentionally or recklessly kill, injure or take mountain hares throughout the year, subject to the provisions of Part 1 of the 1981 Act including the exceptions listed in section 10 and the licensing provisions in section 16 of the 1981 Act.

The amendment of section 10A has no effect in relation to offences committed under section 10A(1) (killing, injuring or taking a wild animal included in schedule 5) prior to 1 March 2021 as section 17 (effect of repeal on existing liability to certain penalties) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) applies.

The Bill for the Act received Royal Assent on 21 July 2020. Sections 17, 22 and 23 came into force the following day.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

Certain provisions of the Act have been brought into force by commencement regulations (SSI 2020/379) made before the date of these Regulations.

The provisions of the Act that have previously been brought into force are listed below.

Provision	*Date of Commencement*	*S.S.I No.*
Section 1 to 3	30 November 2020	2020/379
Section 6 to 13	30 November 2020	2020/379
Section 14(1)	30 November 2020	2020/379
Section 14(2) to (6)	1 February 2021	2020/379
Section 14(7)	30 November 2020	2020/379
Section 15	30 November 2020	2020/379
Section 16	30 November 2020	2020/379

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