Wildlife and Natural Environment (Scotland) Bill

Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 3 proceedings, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

**Note:** The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

**Group 1: Taking of game birds – catching up and disease control**
39, 40, 41, 42, 46, 47, 48, 49, 50

**Group 2: Licensing of taking or killing etc. certain birds for purpose of protecting certain livestock**
61, 52, 54, 55

**Group 3: Protection of wild birds – intervention by the Scottish Ministers**
43, 44, 45

Debate to end no later than 40 minutes after proceedings begin

**Group 4: Snares**
5, 14, 15, 16, 17, 18, 51, 20, 21, 22, 23, 24, 1, 1A, 1B, 1C, 2, 3, 4

*Notes on amendments in this group*
Amendment 5 pre-empts amendments 14, 15, 16, 17, 18, 51, 20, 21, 22, 23, 24, 1 (and, as a consequence, 1A, 1B and 1C), 2, 3 and 4

**Group 5: Minor amendments**
6, 29, 9, 10, 11, 12, 35, 38

Debate to end no later than 1 hour 25 minutes after proceedings begin

SP Bill 52A-G  Session 3 (2011)
Group 6: Grounds etc. on which certain licences under the 1981 Act may be granted
53

Group 7: Delegation of licensing functions to local authorities
25, 36

Group 8: Annual report on wildlife crime
26

Debate to end no later than 1 hour 45 minutes after proceedings begin

Group 9: Knowingly causing or permitting offences under the 1981 Act etc.
7, 27

Group 10: Power to confer certain functions of constable under the 1981 Act on other persons
56

Debate to end no later than 2 hours 5 minutes after proceedings begin

Group 11: Sustainable deer management (including content of and compliance with code of practice)
28, 30, 31, 32, 33, 8, 34

Group 12: SNH’s deer conservation duty – species covered
57, 58

Group 13: Establishment of register of persons competent to shoot deer – consultation
13

Debate to end no later than 2 hours 35 minutes after proceedings begin

Group 14: Deer injured by motor vehicles
59

Group 15: Biodiversity duty and strategy
37, 60

Debate to end no later than 2 hours 55 minutes after proceedings begin
Amendments in debating order

Group 1: Taking of game birds – catching up and disease control

John Scott
39 In section 3, page 2, line 32, leave out <grouse, mallard,>

John Scott
40 In section 3, page 2, line 36, leave out <14> and insert <28>

John Scott
41 In section 3, page 3, leave out lines 1 and 2

John Scott
42 In section 3, page 3, line 2, at end insert—

<(3D) A person does not commit an offence under section 1 by reason of the taking of a red grouse if—

(a) the grouse is taken—

(i) for the purpose of preventing the spread of disease; and

(ii) with the intention of releasing it from captivity after no more than 12 hours, and

(b) the person had—

(i) a legal right to take such a grouse; or

(ii) permission, from a person who had a right to give permission, to take such a grouse.>
John Scott
50 In section 5, page 6, line 36, leave out <14> and insert <28>

**Group 2: Licensing of taking or killing etc. certain birds for purpose of protecting certain livestock**

Peter Peacock
61 In section 3, page 3, line 34, at end insert—

< ( ) In section 27(1) (interpretation of Part I), in paragraph (e) of the definition of “livestock”, at the end add “(except in section 16(1), where it does not include any grey or red-legged partridge, common pheasant or red grouse which is kept for the provision or improvement of shooting which is not wholly confined with secure housing)”.>

Peter Peacock
52 In section 18, page 29, line 7, at end insert—

< ( ) after subsection (1A) insert—

“(1B) A licence under paragraph (k) of subsection (1) may not authorise any activity involving any wild bird included in Schedule 8A which would be an offence under a section mentioned in that subsection if the purpose of the activity is the prevention of serious damage to animals which are kept for the provision or improvement of shooting.”.>

Peter Peacock
54 In section 18, page 30, line 17, at end insert—

< ( ) In section 22 (power to vary Schedules), in subsection (1)(a), after “4” insert “or 8A”.

Peter Peacock
55 In section 18, page 30, line 28, at end insert—

< ( ) After Schedule 8, insert—

“SCHEDULE 8A
(introduced by section 16)

**Licences: Birds which are specially protected by section 16(1B)**

<table>
<thead>
<tr>
<th>Common name</th>
<th>Scientific name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buzzard</td>
<td>Buteo buteo</td>
</tr>
<tr>
<td>Eagle, Golden</td>
<td>Aquila chrysaetos</td>
</tr>
<tr>
<td>Eagle, White-tailed</td>
<td>Haliaeetus albicilla</td>
</tr>
<tr>
<td>Falcon, Peregrine</td>
<td>Falco peregrinus</td>
</tr>
<tr>
<td>Harrier, Hen</td>
<td>Circus cyaneus</td>
</tr>
<tr>
<td>Kite, Red</td>
<td>Milvus milvus</td>
</tr>
<tr>
<td>Owl, Short-eared</td>
<td>Asio flammeus”</td>
</tr>
</tbody>
</table>
43 After section 4, insert—

<Protection of wild birds: notification of concern by the Scottish Ministers

(1) The 1981 Act is amended as follows.

(2) After section 3 of the 1981 Act (areas of special protection), insert—

“3A Protection of wild birds: notification of concern by the Scottish Ministers

(1) Where the conditions in subsection (2) apply, the Scottish Ministers may make a notification under this section.

(2) Those conditions are that—

(a) on any area of land, as defined by the Scottish Ministers in the notification, one or more species of wild bird is at an unfavourable conservation status; and

(b) the Scottish Ministers have reasonable cause to consider that the reason for this unfavourable conservation status relates to recurring management practices carried out with a view to limit the presence of any species among those listed at Schedule 2A.

(3) For the purposes of subsection (2)(a), when assessing whether one or more species of wild bird is at an unfavourable conservation status in the area concerned, the Scottish Ministers must consult Scottish Natural Heritage.

(4) The Scottish Ministers must publish the factors that they must take into account in deciding whether the conditions in subsection (2) apply.

(5) Before publishing factors to be taken into account under subsection (4), the Scottish Ministers must consult any person appearing to them to have an interest in determining those factors.

(6) A notification under subsection (1) must—

(a) be served on the relevant person or persons specified in subsection (17);

(b) be in writing and accompanied by a written explanation of the factors that led the Scottish Ministers to conclude that the conditions in subsection (2) apply; and

(c) set out a procedure which allows the relevant person or persons specified in subsection (17) to respond, within a period two months, to the written explanation accompanying the notification under subsection (1).

(7) The relevant person or persons specified in subsection (17) may appeal the notification under subsection (1) to the Land Court.

(8) An appeal under subsection (7) must be lodged not later than 4 months after the date on which the Scottish Ministers gave notice of the notification under subsection (1).

(9) The Land Court may suspend the effect of the notification under subsection (1) pending the determination of the appeal.

(10) The Land Court must determine an appeal under subsection (7) on the merits rather than by way of review and may do so by—
(a) affirming the notification;
(b) directing the Scottish Ministers to revoke or amend the notification; or
(c) making such other direction as it thinks fit.

(11) A decision of the Land Court on appeal is final except on a point of law.

(12) Not less than six months after the notification under subsection (1) the Scottish Ministers may make an order (a “notification of concern order”) in respect of all or part of the land referred to in the notification under subsection (1), but only where the conditions in subsection (13) apply.

(13) Those conditions are that—
(a) responses made under subsection (6)(c) have not been received from all persons notified;
(b) the Scottish Ministers do not consider that the responses made under subsection (6)(c) sufficiently address the concerns that prompted the notification under subsection (1); or
(c) where an appeal is made under subsection (7), the Land Court has affirmed the notification by the Scottish Ministers.

(14) A notification of concern order made under subsection (12) must be laid before the Scottish Parliament.

(15) Where the Scottish Ministers do not, within two years of the notification being made under subsection (1), make a notification of concern order under subsection (12), they must revoke the notification made under subsection (1).

(16) In this section “unfavourable conservation status” means an abundance or breeding productivity significantly below the level that might reasonably be expected by comparisons with other areas of suitable habitat.

(17) This section applies to such owners, bodies corporate, Scottish partnerships or other such other person as the Scottish Ministers may determine are concerned with the management of the land referred to in the notification.”.

(3) After Schedule 2, insert—

“SCHEDULE 2A
(introduced by section 3A)
PROTECTION OF WILD BIRDS UNDER SECTION 3A

<table>
<thead>
<tr>
<th>Common name</th>
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</tr>
</tbody>
</table>
| Owl, Short-eared | Asio flammeus".>
Peter Peacock

44 After section 4, insert—

<Protection of wild birds: intervention by the Scottish Ministers>
After section 3A of the 1981 Act (protection of wild birds: notification of concern by the Scottish Ministers), insert—

“3B Protection of wild birds: intervention by the Scottish Ministers

(1) This section applies where a notification of concern order under section 3A(12) has been—

(a) made; or

(b) where appealed under section 3A(7), the Land Court has affirmed the notification.

(2) The Scottish Ministers may make an order (a “regulation of activity order”) which requires the relevant person or persons specified in subsection (17) to produce a plan for the management of the land subject to an order made under section 3A(12).

(3) Before making an order under subsection (2), the Scottish Ministers must notify such relevant person or persons to whom the order will apply.

(4) The notification under subsection (3) must give the relevant person or persons three months from it being issued to provide the Scottish Ministers with notice of an action plan to respond to the matters contained within the notification made under section 3A(1).

(5) The Scottish Ministers may make a regulation of activity order only if—

(a) responses have not been received from all persons notified; or

(b) the Scottish Ministers consider that the action plan provided under subsection (4) does not respond to the concerns that prompted the notification under section 3A(1).

(6) Where subsection (5) applies, the Scottish Ministers may make a regulation of activity order requiring such relevant person or persons as specified in subsection (17) to produce a management plan which sets out how they will respond to the concerns of the Scottish Ministers contained within the notification made under section 3A(1), regardless of whether or not they have already produced an action plan under subsection (4).

(7) The management plan produced in response to a regulation of activity order must be submitted to the Scottish Ministers within six months of the making of the order.

(8) Within six months of receiving a management plan under subsection (7), the Scottish Ministers must confirm the plan, either with or without amendment.

(9) A relevant person or persons specified in subsection (17) must act in accordance with the terms of the management plan.

(10) Where the Scottish Ministers make a regulation of activity order, the relevant person or persons specified in subsection (17) must—

(a) propose to the Scottish Ministers arrangements for the monitoring of that order for the agreement of the Scottish Ministers; and
(b) beginning six months after the making of the order and in each subsequent period of six months, report to the Scottish Ministers on what steps have been taken during the reporting period to comply with the regulation of activity order.

(11) Where the Scottish Ministers do not consider that the proposals for monitoring arrangements are adequate, they may specify what monitoring arrangements shall apply.

(12) The Scottish Ministers or Scottish Natural Heritage, as the case may be, may, as part of the monitoring arrangement under subsection (11), authorise in writing a person to carry out the monitoring and that person may enter any area of land with respect to which a regulation of activity order applies provided that it is for the purpose of monitoring compliance with that order.

(13) A person so authorised to enter premises may not demand admission as of right to any land which is occupied unless it is for the purpose of monitoring compliance with regulation of activity order.

(14) Nothing in this section authorises any person to break any lock barring access to any area of land to which the person is authorised to enter.

(15) A regulation of activity order shall not apply to any land below high-water mark of ordinary spring tides.

(16) Where a regulation of activity order is in force, any relevant person or persons specified in subsection (17) who sells, leases or otherwise allows for payment the shooting of wild birds on the land subject to the order must, in advertisement for such shooting, indicate that the order is in force.

(17) This section applies to such owners, bodies corporate, Scottish partnerships or any other person as the Ministers may determine is concerned with the management of the land included in the area with respect to which the regulation of activity order is to be made.

Peter Peacock

45 After section 4, insert—

<Protection of wild birds: disapplication of rights by the Scottish Ministers

After section 3B of the 1981 Act (protection of wild birds: intervention by the Scottish Ministers), insert—

“3C Protection of wild birds: disapplication of rights by the Scottish Ministers

(1) This section applies where a regulation of activity order has been made under section 3B(2), and the condition in subsection (2) of this section is met.

(2) The condition is that the Scottish Ministers consider that the terms of a regulation of activity order have not been met over the course of two successive reports under section 3B(10).

(3) The Scottish Ministers may make an order to disapply the provisions of section 2(1) to any person on the land referred to in that order (a “disapplication of rights order”).

(4) A disapplication of rights order under subsection (3) must—

(a) identify all the owners and people concerned with the management of land in the area of land to which the order applies;
(b) provide for an exemption to the provisions of the order to any person or persons concerned with the management of land in the area of land to which the order applies where, from the information provided to them, the Scottish Ministers consider that the relevant person or persons are engaged solely in agricultural operations and do not profit from the exercise of rights accorded by section 2(1).

(5) An order under subsection (3) must be—

(a) laid before the Parliament; and

(b) given notice of by advertisement in a newspaper circulating in the locality of the area in which the order applies.

(6) Where, after 2 years, the Scottish Ministers consider that the terms of the regulation of activity order are consistently being met, they may revoke a disapplication of rights order applying to the area in respect of which the regulation of activity order applies.

(7) Where ownership of the area of land to which the disapplication of rights order applies changes, on the application of that new owner, the Scottish Ministers may revoke that order.

(8) In revoking a disapplication of rights order, the notification made under section 3A(1), a notification of concern order and a regulation of concern order applying to the same area of land are also revoked.

(9) The revocation of an order under subsection (6) or (7) does not prevent the Scottish Ministers from imposing a subsequent notification of concern or regulation of activity order on the same area of land where the Scottish Ministers have reasonable cause to believe that the relevant condition applies.

(10) An owner or person concerned in the management of land with respect to which a disapplication of rights order applies may appeal to the Land Court.

(11) An appeal under subsection (10) must be lodged not later than 28 days after the date on which the Scottish Ministers gave notice to the appellant of the disapplication of rights order.

(12) The Land Court may suspend the effect of the disapplication of rights order pending the determination of the appeal.

(13) The Land Court must determine an appeal under subsection (10) on the merits rather than by way of review and may do so by—

(a) affirming the disapplication of rights order;

(b) directing the Scottish Ministers to revoke or amend the disapplication of rights order; or

(c) making such other direction as it thinks fit.

(14) A decision of the Land Court on appeal is final except on a point of law.

(15) A disapplication of rights order shall not apply to any land below high-water mark of ordinary spring tides.
Group 4: Snares

Irene Oldfather

5* In section 13, page 12, line 22, leave out from beginning to end of line 15 on page 16 and insert—

<( ) in subsection (1), for paragraphs (a) and (aa), substitute—

“(a) sets in position or otherwise uses any snare;”,

( ) subsections (3) to (3B) are repealed,

( ) in subsection (3C)—

(i) in paragraph (b), at the beginning insert “manufactures,”,

(ii) the words “which is capable of operating as a self-locking snare or a snare of any other type specified in an order under subsection (1)(a)” are repealed,

( ) subsections (3D) and (3E) are repealed,

( ) in subsection (4A), for “to (3E)” substitute “, (2) and (3C)”.

( ) In section 16 (power to grant licences)—

(a) in subsection (3), for “11(1), (2) and (3C)(a)” substitute “11(1)(b) and (c), (1)(d) (except in so far as it relates to section 11(1)(a)) and (2)”,

(b) after subsection (4A), insert—

“(4B) Sections 11(1)(a), (1)(d) (in so far as it relates to section 11(1)(a)) and (3C)(a) do not apply to anything done for scientific or research purposes if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

(4C) Section 11(3C)(a) does not apply to anything done for educational purposes if it is done under and in accordance with the terms of a licence granted by the appropriate authority.”.

Liam McArthur

14 In section 13, page 13, line 23, at beginning insert <For the purposes of this section and sections 11D and 11DZA,>

Elaine Murray

15 In section 13, page 13, line 24, at end insert—

<(3A) Any person who sets a snare in position must, at the time of setting the snare in position, reasonably consider that no other method of controlling or capturing the wild animal or animals that the snare is intended to catch would be effective.

(3B) The Scottish Ministers must prepare and publish guidance in relation to subsection (3A); and such guidance may give examples of—

(a) things that a person might do (prior to setting the snare in position) in order to reasonably consider, at the time of setting the snare in position, that no other method of controlling or capturing the wild animal or animals that the snare is intended to catch would be effective;
(b) circumstances in which a person may (without trying alternative methods of control and capture) reasonably consider that no other method of controlling or capturing the wild animal or animals that the snare is intended to catch would be effective.>

Elaine Murray

16 In section 13, page 13, line 30, at end insert <and on the circumstances in which the setting of snares is an appropriate method of predator control,>

Elaine Murray

17 In section 13, page 13, line 32, at end insert—

<( ) Subsection (4) is subject to any provision made by virtue of subsection (8)(ga).>

Elaine Murray

18 In section 13, page 13, line 38, at end insert—

<( ) Any person who fails to comply with subsection (3A) is guilty of an offence.>

Elaine Murray

51 In section 13, page 13, line 38, at end insert—

<(6B) Where a person who is convicted of an offence mentioned in subsection (6C) has an identification number, the chief constable who issued that identification number must revoke the identification number.

(6C) The offences are offences under—

(a) section 5(1)(a) or (b) which involve the use of a snare;
(b) section 11(1)(a) or (aa), (3C) or (3E);
(c) section 11(2)(a) or (b) which involve the use of a snare;
(d) this section;
(e) section 11B;
(f) section 11C.>

Elaine Murray

20 In section 13, page 14, line 6, at end insert <and on the circumstances in which the setting of snares is an appropriate method of predator control;>

Elaine Murray

21 In section 13, page 14, line 19, at end insert—

<(ga) the issuing of identification numbers to a person whose previous identification number was revoked under subsection (6B);>

Roseanna Cunningham

22 In section 13, page 15, line 15, leave out <to (c)> and insert <or (b)>
In section 13, page 15, line 30, at end insert—

**<11DZA Snares: record keeping**

(1) Any person who has an identification number must keep a record of the following—

(a) the location of every snare set in position by the person which remains in position,

(b) the location of every other snare set in position by the person within the past two years,

(c) the date on which each snare mentioned in paragraph (a) or (b) was set,

(d) the date on which each snare mentioned in paragraph (b) was removed,

(e) in relation to each animal caught in a snare mentioned in paragraph (a) or (b)—

(i) the type of animal,

(ii) the date it was found,

(f) such other information as the Scottish Ministers may by order specify.

(2) For the purposes of subsection (1)(a) and (b), the location of a snare is to be recorded—

(a) by reference to a map, or

(b) by such other means (for example, by means of a description) capable of readily identifying the location.

(3) Any person who, without reasonable excuse, fails to comply with the duty under subsection (1) is guilty of an offence.

(4) Any person who—

(a) is requested to produce the record kept under subsection (1) to a constable, and

(b) fails to do so within 21 days of being so requested,

is guilty of an offence.

(5) Subsection (1) does not apply in relation to any snare set in position by a person before the person is issued with an identification number.”.

In section 13, page 15, line 36, leave out <and 11D> and insert <, 11D and 11DZA>

**<2> A review must be carried out under subsection (1) no later than—**

(a) 31st December 2016 (“the first review date”),

(b) the end of the period of 5 years beginning with the first review date, and

(c) the end of each subsequent period of 5 years.”
Elaine Murray

1A As an amendment to amendment 1, line 3, leave out <31st December 2016> and insert <30th June 2014>

Elaine Murray

1B As an amendment to amendment 1, line 4, leave out <5> and insert <4>

Elaine Murray

1C As an amendment to amendment 1, line 5, leave out <5> and insert <4>

Bill Wilson

2 In section 13, page 16, line 1, leave out <the review> and insert <a review under subsection (1)>

Bill Wilson

3 In section 13, page 16, line 5, leave out first <the review> and insert <a review under subsection (1)>

Bill Wilson

4 In section 13, page 16, line 9, leave out <31st December 2016> and insert <a review is carried out under subsection (1)>

Group 5: Minor amendments

John Scott

6 In section 15, page 19, line 32, at end insert—

<( ) species control agreements;>

Roseanna Cunningham

29 In section 22, page 34, line 30, after <safety;> insert <and>

John Scott

9 In section 23, page 35, line 20, leave out <made under this section must>

John Scott

10 In section 23, page 35, line 22, at beginning insert <must>

John Scott

11 In section 23, page 35, line 24, leave out <come> and insert <comes>

John Scott

12 In section 23, page 35, line 34, leave out <made under this section>

Roseanna Cunningham

35 In section 25, page 40, line 11, leave out subsection (5)
THIS IS NOT THE MARSHALLED LIST

Roseanna Cunningham
38 In section 35, page 60, line 19, leave out <and this Part> and insert <, section 34 and this section>

Group 6: Grounds etc, on which certain licences under the 1981 Act may be granted

Peter Peacock
53 In section 18, page 29, leave out lines 11 to 18 and insert—

<(i) for other imperative reasons of overriding public interest including those of a significant social or economic nature and beneficial consequences of primary importance for the environment,“,

( ) for subsection (4A) substitute—

“(4A) The appropriate authority shall not grant a licence under subsection (3) or (4) unless it is satisfied—

(a) that there is no other satisfactory solution; and

(b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status.”,>

Group 7: Delegation of licensing functions to local authorities

Elaine Murray
25 In section 18, page 29, line 36, at end insert—

<(1A) But a function may be delegated to a local authority only in so far as it relates to—

(a) the development of land within the meaning of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8), or

(b) the demolition of buildings within the meaning of section 55 of the Building (Scotland) Act 2003 (asp 8).>

Elaine Murray
36 In section 27, page 45, line 5, at end insert <(but only in relation to the purpose mentioned in section 10(1)(d)).>

Group 8: Annual report on wildlife crime

Roseanna Cunningham
26 After section 19, insert—
Annual report on wildlife crime

After section 26A of the 1981 Act insert—

"26B Annual report on wildlife crime"

(1) The Scottish Ministers must, after the end of each calendar year, lay before the Scottish Parliament a report on offences relating to wildlife.

(2) The report may, in particular, include—

(a) information on the incidence and prosecution of such offences during the year to which the report relates,

(b) information on research and advice relating to wildlife which the Scottish Ministers consider relevant to such offences.

(3) The report need only include information in relation to such offences relating to wildlife as the Scottish Ministers consider appropriate.

(4) For the purposes of this section, an offence relating to wildlife is an offence—

(a) under Part 1 of this Act, or

(b) under any other enactment which the Scottish Ministers consider may have an impact on wildlife.”.

Group 9: Knowingly causing or permitting offences under the 1981 Act etc.

Liam McArthur

7 After section 19, insert—

"Offence of knowingly causing or permitting certain offences under the 1981 Act"

(1) The 1981 Act is amended as follows.

(2) In section 6 (sale etc. of live or dead wild birds, eggs etc.), after subsection (2), insert—

“(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section (other than subsections (1)(b) and (2)(b)) shall be guilty of an offence.”.

(3) In section 7 (registration etc. of certain captive birds), after subsection (5), insert—

“(5A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section shall be guilty of an offence.”.

(4) In section 15A (possession of pesticides), after subsection (2), insert—

“(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by subsection (1) shall be guilty of an offence.”.
In section 20B, page 33, line 2, after <1(1),> insert <(2),>

Group 10: Power to confer certain functions of constable under the 1981 Act on other persons

Before section 20, insert—

<Enforcement: power to confer certain functions on persons other than constables>

(1) The 1981 Act is amended as follows.

(2) In section 19 (enforcement), after subsection (8) insert—

“(9) The Scottish Ministers may, by order, provide that the functions conferred on a constable by this section (except the power conferred by subsection (1)(c)) and section 19ZD are also exercisable by a person authorised by them for the purposes of this subsection.

(10) An order under subsection (9) may include such incidental, supplementary or consequential provision (including provision amending this Act) as the Scottish Ministers consider appropriate for the purposes of, in connection with, or for the purpose of giving full effect to subsection (9).

(11) An authorisation under subsection (9)—

(a) shall be in writing;

(b) is subject to any conditions or limitations specified in it;

(c) may be revoked by the Scottish Ministers.”.

(3) In section 26 (regulations, orders, notices etc.)—

(a) in subsection (2), for “and 11(4)” substitute “, 11(4) and 19(9)”,

(b) in subsection (3), for “or 11(4)” substitute “, 11(4) or 19(9)”,

(c) in subsection (4), after “14D” (as inserted by section 17(6)(b)(i)) insert “or 19(9)”,

(d) in subsection (5), after “16A(4)(b)” (as inserted by section 18(4)(b)) insert “or 19(9)”,

(e) after subsection (5), insert—

“(5A) Before laying a draft statutory instrument containing an order under section 19(9) before the Parliament, the Scottish Ministers must consult—

(a) chief constables;

(b) any organisation employees of which the Scottish Ministers would intend, in the event of the order being made, to authorise under section 19(9); and

(c) such other persons (if any) as they consider appropriate.

(5B) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft order before the Parliament;
(b) send of copy of the proposed draft order to any person to be consulted under subsection (5A); and

c) have regard to any representations about the proposed draft order that are made to them within 60 days of the date on which the copy of the proposed draft order is laid before the Parliament.

(5C) In calculating any period of 60 days for the purposes of subsection (5B)(c), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

(5D) When laying a draft statutory instrument containing an order under section 19(9) under subsection (3), the Scottish Ministers must also lay before the Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (5A);

(b) any representations received as a result of the consultation; and

(c) the changes (if any) made to the proposed draft order as a result of those representations.”.>

Group 11: Sustainable deer management (including content of and compliance with code of practice)

Robin Harper

28 Before section 22, insert—

Duty of sustainable deer management

Before section 1 of the 1996 Act, insert—

“PART A1

SUSTAINABLE DEER MANAGEMENT

Duty of sustainable deer management

(1) It is the duty of—

(a) a public body or office holder owning, occupying or otherwise controlling land on which deer are found;

(b) an owner or occupier of land on which deer are found,

to further the sustainable management of deer on that land by complying with a code of practice drawn up under section 5A of this Act.

(2) But subsections (1)(a) and (b) only apply to land on which deer are found in sufficient number or with sufficient frequency as to—

(a) cause, or be likely to cause, damage or injury of the nature set out in section 7(1)(a) of this Act; or

(b) have become a danger, or be likely to become, a danger to public safety.”.

Liam McArthur

30 In section 23, page 35, line 1, leave out <may, in particular> and insert <must>
Liam McArthur
31 In section 23, page 35, line 6, at beginning insert—
  <(  ) The code of practice may>

Liam McArthur
32 In section 23, page 35, line 7, at end insert—
  <(  ) The recommendations referred to in subsection (2)(a) must cover arrangements for determining the levels of any cull and, if needed, how they are implemented to achieve sustainable deer population levels.>

Liam McArthur
33 In section 23, page 35, line 7, at end insert—
  <(  ) The recommendations and provisions referred to in subsection (2)(a) and (b) must cover arrangements for collaboration on deer management planning between the owners and occupiers of land within deer natural ranges.>

Liam McArthur
8 In section 23, page 35, line 7, at end insert—
  <(  ) SNH must from time to time review the code of practice.>

Liam McArthur
34 In section 24, page 36, line 8, at end insert—
  <(  ) after “is satisfied that” insert “a failure to carry out management work as required by the code, or a management plan agreed in accordance with the code, requires addressing by means of measures under this section or section 8, or that”;

Group 12: SNH’s deer conservation duty – species covered

Jamie McGrigor
57 In section 22, page 34, line 10, leave out <1(2)> and insert <1>

Jamie McGrigor
58 In section 22, page 34, line 10, at end insert—
  <(  ) in subsection (1)(a), for “conservation,” substitute “conservation of deer native to Scotland, the”,
  (  ) in subsection (2)—
  (  )>
Group 13: Establishment of register of persons competent to shoot deer – consultation

John Scott

13 In section 26, page 41, line 26, at end insert—

<( ) Before making regulations under subsection (1) above, the Scottish Ministers (or a person nominated by them) must consult such persons and organisations as they consider (or, as the case may be, the nominated person considers) have an interest in the regulations.>

Group 14: Deer injured by motor vehicles

Jamie McGrigor

59 After section 26B, insert—

<Deer injured by motor vehicles

After section 42 of the 1996 Act insert—

“42A Deer injured by motor vehicles

SNH may, in such areas as it considers appropriate, take such steps as it considers appropriate to ensure that drivers of motor vehicles are aware of who to notify of any concerns about a deer’s welfare following a collision between a motor vehicle and the deer which resulted in injury to the deer.”>

Group 15: Biodiversity duty and strategy

Robin Harper

37 After section 28A, insert—

<Part

Biodiversity

In section 2 (Scottish biodiversity strategy) of the 2004 Act, after subsection (3), insert—

“(3B) A strategy designated under subsection (1) must set out the Scottish Ministers’ objectives in relation to the conservation of biodiversity, together with how—

(a) policies in relation to protected areas,
(b) species and habitat conservation measures,
(c) land use policies,
(d) town and country planning policies,
(e) marine planning policies, and
(f) such other policies as they consider relevant,

will contribute to the achievement of those objectives.”>
PART

BIODIVERSITY

Reports on compliance with biodiversity duty

After section 2 of the 2004 Act insert—

"2A Reports on compliance with biodiversity duty

(1) A public body must prepare and publish a biodiversity report within 3 years of—

(a) the base date,

(b) the date on which a report was last published by the body under this subsection.

(2) A biodiversity report is a report on the actions taken by the body in pursuance of its duty under section 1 during the period to which the report relates.

(3) The base date is—

(a) the date on which section (Reports on compliance with biodiversity duty) of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 00) comes into force, or

(b) where the body is established after that date, the date on which the body is established.

(4) A report under this section—

(a) is to be prepared in such form and published in such manner as the body thinks fit,

(b) may be incorporated within another report prepared or published by the body."

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