Wildlife and Natural Environment (Scotland) Bill

1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 21  Schedule
Sections 22 to 35  Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 3

Peter Peacock

45* In section 3, page 2, line 2, at end insert—

<(  ) In that section, after subsection (5C), insert—

“(5D) Subject to the provisions of this Part, any person, being the owner or concerned in the management of any area of land, who causes or permits to be done an act on that land which is made unlawful by any of the foregoing provisions of this section shall be guilty of an offence.”.>

Roseanna Cunningham

1 In section 3, page 2, line 32, after <a> insert <grouse,>

Roseanna Cunningham

2 In section 3, page 2, line 32, leave out <, pheasant or red grouse> and insert <or pheasant>

Karen Gillon

Supported by: John Scott

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

Roseanna Cunningham

3 In section 3, page 3, line 17, at end insert—

<(  ) In section 5(5) (use of cage traps or nets for breeding purposes), for “game bird” substitute “grouse, mallard, partridge or pheasant included in Part I of Schedule 2”.>

Roseanna Cunningham

4 In section 3, page 3, line 17, at end insert—

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

(a) in subsection (2)—

(i) after “than” insert “—
(a) an order under any of”,
(ii) for “and” substitute “or”,
(iii) after “11(4)” insert “; and
(b) an order under section 22(1)(a) which removes from Part I of Schedule 2 black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge”,

(b) in subsection (3)—
(i) after “No” insert “—
(a)”,
(ii) after “11(4)” insert “; or
(b) order under section 22(1)(a) which removes from Part I of Schedule 2 any bird referred to in paragraph (b) of subsection (2),”.

John Scott

20 In section 3, page 3, line 17, at end insert—

<(< ) In section 22 (power to vary Schedules), after subsection (2A), insert—

“(2B) Before making an order under subsection (1) which removes from Part I of Schedule 2 black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge the Scottish Ministers shall consult such persons appearing to them to be representative of persons interested in the killing or taking of birds of the kind proposed to be removed by the order as they consider appropriate.”.

Peter Peacock

46 In section 3, page 3, line 17, at end insert—

<(< ) In section 27(1) (interpretation of Part I), in paragraph (c) of the definition of “livestock”, at the end add “(except a mallard, 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 within secure housing)”.

After section 3

Liam McArthur

21 After section 3, insert—

<Duty on owners, lessees and occupiers of land: provision of information on numbers of birds shot>

After section 5 of the 1981 Act (prohibition of certain methods of killing or taking wild birds), insert—

“5A Duty on owners, lessees and occupiers of land: provision of information on numbers of wild birds shot

(1) The owner, lessee or occupier of land must keep a record of the number of each species of wild bird that is lawfully shot on or over such land.
(2) The information recorded and kept under subsection (1) must be provided, on request, to Scottish Natural Heritage.

(3) Scottish Natural Heritage may, from time to time, publish information received under subsection (2) in an anonymised format.”.

Bill Wilson

47* After section 3, insert—

<Duty on the Scottish Ministers to establish a system to record the numbers of wild birds killed or taken

After section 5 of the 1981 Act (prohibition of certain methods of killing or taking wild birds), insert—

“5A Duty on the Scottish Ministers to establish a system to record the numbers of wild birds killed or taken

(1) The Scottish Ministers must establish a system for the recording of the numbers of each species of wild bird that is lawfully killed or taken.

(2) The Scottish Ministers may by direction delegate their duty under subsection (1) to Scottish Natural Heritage.

(3) The owner, lessee or occupier of land must, in accordance with the terms of the system established under subsection (1)—

(a) keep a record of the number of each species of wild bird that is lawfully killed or taken on or over such land;

(b) report the recorded information to the Scottish Ministers or, where subsection (2) applies, Scottish Natural Heritage.

(4) Any owner, lessee or occupier of land who does not comply with the provisions of subsection (3) is guilty of an offence.

(5) The Scottish Ministers or, where subsection (2) applies, Scottish Natural Heritage may, from time to time, publish information received under subsection (3) in an anonymised format.”.

After section 4

Peter Peacock

48 After section 4, insert—

<Protection of wild birds: intervention by the Scottish Ministers

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

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

(1) The Scottish Ministers may make an order (a “regulation of activity order”) in respect of an area of land in which they have reasonable cause to believe that any of the matters specified in subsection (2) are taking place within that area.

(2) Those matters are any activities that are taking place in that area, or any part of it specified in the regulation of activity order, at any time or during any period so specified which concern—
(a) the killing, injuring or taking of any wild bird or any wild bird so specified;

(b) the setting in position of any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;

(c) the taking, damaging or destroying of the nest of such a bird while that nest is in use or being built; or

(d) the taking or destroying of an egg of such a bird;

excepting anything permitted by any other enactment.

(3) The Scottish Ministers must publish guidance on matters they may take into account to enable them to conclude whether there is reasonable cause to believe those matters specified in subsection (2) are taking place within that area.

(4) Before publishing guidance under subsection (3), the Scottish Ministers must consult any person appearing to them to have an interest in determining the guidance.

(5) Where the Scottish Ministers—

(a) conclude that there is reasonable cause to believe that those matters in subsection (2) are taking place within that area; but

(b) before making a regulation of activity order,

they must give particulars of the intended regulation of activity order either by notice in writing to every owner and every person concerned in the management of any land included in the area with respect to which the regulation of activity order is to be made, or, where the giving of such a notice is in their opinion impracticable, by advertisement in a newspaper circulating in the locality in which that area is situated.

(6) A notice under subsection (5) must give every owner and every person concerned in the management of any land included in the area with respect to which the regulation of activity order is to be made, 3 months from the issuing of the notice to provide the Scottish Ministers with notice of an action plan to respond to the matters contained within the notice issued by the Scottish Ministers.

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

(a) responses have not been received from every owner and person concerned in the management of any land included in the area with respect to which the regulation of activity order is to be made;

(b) they believe that the action plans provided under subsection (6) are insufficient to respond to their concerns; or

(c) they have reasonable cause to believe that matters specified in subsection (2) are still taking place in the area with respect to which the order is to be made.
Where subsection (7) applies, the Scottish Ministers may make a regulation of activity order—

(a) imposing restrictions on the owners and persons concerned in the management of any land included in the area with respect to which the order is to be made in respect of such activities relating to the killing and taking of wild birds as may be specified in the order;

(b) requiring the owners and persons concerned in the management of any land included in the area with respect to which the order is to be made to register the taking or killing of any game; and

(c) requiring the owners and persons concerned in the management of any land included in the area with respect to which the order is to be made to produce a management plan setting out how they will respond to that order, regardless of whether or not they have already produced a management plan under subsection (6).

Where the Scottish Ministers have made a regulation of activity order they must—

(a) make provision for Scottish Natural Heritage to monitor that order;

(b) provide for the terms on which Scottish Natural Heritage are to monitor that order;

(c) require Scottish Natural Heritage to provide reports to the Scottish Ministers at 6 monthly intervals on the compliance with that order.

A person authorised in writing by Scottish Natural Heritage 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 that order.

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 a regulation of activity order.

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.

Where after 2 years Scottish Natural Heritage consider that the terms of the regulation of activity order are consistently being met, the Scottish Ministers may revoke the order.

The revocation of an order does not prevent the Scottish Ministers from imposing a subsequent regulation of activity order upon the same area of land where the Scottish Ministers have reasonable cause to believe that any of the matters specified in subsection (2) are taking place within that area.

Where Scottish Natural Heritage consider that the terms of a regulation of activity order are not being met over the course of two successive reports under subsection (9)(c), the Scottish Ministers may revoke the rights of the specified owners and persons concerned in the management of any land included in the area with respect to which the order applies to undertake the activities regulated by that order under subsection (9)(a) and (b) by a specified date.

An owner or person concerned in the management of land with respect to which the regulation of activity order applies whose rights have been revoked under subsection (15) may appeal to the Land Court against such a revocation.
(17) An appeal under subsection (16) must be lodged not later than 28 days after the date on which the Scottish Ministers gave notice to the appellant of the decision under subsection (15).

(18) The Land Court may suspend any effect of any revoking of rights pending the determination of an appeal.

(19) The Land Court must determine an appeal under subsection (16) on the merits rather than by way of review and may do so by—

(a) affirming the revocation of rights under subsection (15);

(b) directing the Scottish Ministers to rescind the revocation of rights under subsection (15); or

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

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

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

Section 5

Karen Gillon
Supported by: John Scott

22 In section 5, page 5, line 18, leave out <14> and insert <28>

Karen Gillon
Supported by: John Scott

49 In section 5, page 5, line 25, leave out <14> and insert <28>

Karen Gillon
Supported by: John Scott

50 In section 5, page 6, line 18, leave out <14> and insert <28>

After section 5

Liam McArthur

23 After section 5, insert—

<Annual report on illegal killing of wild birds

After section 6 of the 1981 Act (sale etc. of live or dead wild, eggs etc.), insert—

“6A Annual report on illegal killing of wild birds

(1) The Scottish Ministers must as soon as practicable after the end of each calendar year lay before the Parliament a report on the incidence of the illegal killing of wild birds under this Act in the reporting year.

(2) In preparing a report under subsection (1), the Scottish Ministers may require wildlife inspectors to provide them with such information as they consider necessary to fulfil the requirements of that subsection.”.>
Protection of certain wild animals

In section 9 of the 1981 Act (protection of certain wild animals), after subsection (5A), insert—

“(5B) Subject to the provisions of this Part, any person, being the owner or concerned in the management of any area of land, who causes or permits to be done an act on that land which is made unlawful by any of the foregoing provisions of this section shall be guilty of an offence.”.

Section 6

John Scott
Supported by: Alasdair Morgan

24 In section 6, page 7, line 31, leave out <March> and insert <April>

Roseanna Cunningham

5 In section 6, page 9, line 6, at end insert—

<(7) Nothing in section 10A makes unlawful—

(a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.”.>

Section 7

Roseanna Cunningham

6 In section 7, page 9, line 21, leave out <11D> and insert <11DA>

Roseanna Cunningham

7 In section 7, page 9, line 39, at end insert—

<(3) Nothing in section 11E makes unlawful—

(a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.”.>
Section 12

Elaine Murray

52 In section 12, page 11, leave out lines 24 to 31 and insert—

(a) an offence under section 1(1);
(b) an offence under subsections 5(1)(a) to 5(1)(e);
(c) an offence under section 9(1);
(d) an offence under section 10A(1);
(e) an offence under subsections 11(1)(a) to 11(1)(c) or 11(2)(a) to 11(2)(e);
(f) an offence under sections 11B(3), 11C or 11E(1);
(g) an offence under section 13(1);
(h) an offence under sections 14(1), or 14(2)”.>

Section 13

Marilyn Livingstone

26 In section 13, page 11, line 36, leave out from beginning to end of line 9 on page 15 and insert—

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

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

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

(c) 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,

(d) subsections (3D) and (3E) are repealed.

( ) 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

27 In section 13, page 12, line 24, after <number> insert <, and
( ) a unique identification number ("the snare number") for each snare that the person intends to set.

Liam McArthur
28 In section 13, page 12, line 25, after <numbers> insert <, snare numbers>

Liam McArthur
29 In section 13, page 12, line 32, after <position> insert <and a snare number>

Liam McArthur
30 In section 13, page 12, line 39, leave out <is the identification number> and insert <and the snare number are the numbers>

Liam McArthur
31 In section 13, page 13, line 2, after <number> insert <and snare numbers>

Elaine Murray
8 In section 13, page 13, line 5, at end insert <; and>

( ) on being satisfied that the applicant has found such other methods for the capture and control of wild animals, as the Scottish Ministers may determine, to be ineffective.

Liam McArthur
32 In section 13, page 13, line 7, at end insert <and the number of snare numbers the person applied for.>

Liam McArthur
33 In section 13, page 13, line 14, leave out <has> and insert <and a snare number have>

Liam McArthur
34 In section 13, page 13, line 15, leave out <it is> and insert <they are>

Liam McArthur
35 In section 13, page 13, line 16, leave out <it> and insert <them>

Liam McArthur
36 In section 13, page 13, line 19, after <number> insert <and snare number>

Liam McArthur
37 In section 13, page 13, line 23, after <number> insert <and snare number>
Elaine Murray

9 In section 13, page 13, line 23, at end insert—

<(  ) what other methods for the control and capture of wild animals an applicant for an identification number must find to be ineffective before making such an application;

(  ) how a chief constable is to be satisfied that an applicant for an identification number has found other methods for the control and capture of wild animals to be ineffective;>

Liam McArthur

38 In section 13, page 13, line 26, after <number> insert <and snare number>

Liam McArthur

39 In section 13, page 13, line 30, at end insert <and snare number or, as the case may be, snare numbers;>

Liam McArthur

40 In section 13, page 13, line 34, after <numbers> insert <and snare numbers>

Liam McArthur

41 In section 13, page 13, line 35, after <numbers> insert <and snare numbers>

Liam McArthur

42 In section 13, page 13, line 37, leave out <or identification> and insert <, identification numbers or snare>

Liam McArthur

43 In section 13, page 13, line 39, after <number> and insert <and snare numbers>

Liam McArthur

44 In section 13, page 13, line 39, at end insert—

<(  ) Provision made under subsection (8)(a) must require that the person has been trained to set a snare in position only if such training included instruction on animal welfare in relation to the setting of a snare.>

John Scott

53 In section 13, page 13, line 39, at end insert—

<(8A) The Scottish Ministers must take such steps as are reasonably practicable to ensure that, during the period of 2 years beginning with the day on which this section comes into force, sufficient opportunities to access training exist to secure the result mentioned in subsection (8B).>
That result is that all persons who would be required, by virtue of the coming into force of subsections (1) and (5), to cease setting snares in position until issued with an identification number are enabled to receive training within that period of 2 years.

In subsections (8A) and (8B), “training” means such training as is required in order for an application for an identification number under subsection (4)(a) to be granted.

Roseanna Cunningham

10 In section 13, page 15, line 4, at end insert—

<11DA Snaring: review and report to the Scottish Parliament

(1) The Scottish Ministers must carry out, or secure the carrying out by another person of, a review of the operation and effect of—

(a) section 11 and any orders made under that section (in so far as the section and the orders make provision as regards snaring);

(b) sections 11A, 11B, 11C and 11D and any orders made under those sections.

(2) The review must be carried out no later than 31st December 2016.

(3) In carrying out the review, the matters that must be considered include whether in the opinion of the Ministers (or, if the review is being carried out by another person, that person) amendment of this Act or enactment of other legislation is appropriate.

(4) In carrying out the review, the Scottish Ministers (or, if the review is being carried out by another person, that person) must consult such persons and organisations as they consider (or, as the case may be, the other person considers) have an interest in it.

(5) The Scottish Ministers must, as soon as practicable after 31st December 2016, lay a report of the review before the Scottish Parliament.”.>

Elaine Murray

11 In section 13, page 15, line 4, at end insert—

<11DA Duty to review snaring regime

(1) The Scottish Ministers must review and publish a report on the operation of the snaring regime—

(a) within 2 years of section 13 (snares) of the Wildlife and Natural Environment (Scotland) Act 2010 (asp 00) coming into force; and

(b) within each subsequent period of 2 years beginning with the publication of a report.

(2) When carrying out a review, the Scottish Ministers must—

(a) have regard to the incidence of offences under section 11(1A);

(b) have regard to the extent to which snares are catching types of animal which they are not intended to catch; and
(c) consult chief constables and any other such person as they consider appropriate.

(3) The Scottish Ministers must have regard to their most recent report when performing functions under the snaring regime.

(4) In this section, “snaring regime” means the provisions of this Part relating to snaring.

Elaine Murray

12 In section 13, page 15, line 4, at end insert—

11DA Duty to review snaring regime

(1) The Scottish Ministers must review and publish a report on the operation of the snaring regime—

(a) within 5 years of section 13 (snares) of the Wildlife and Natural Environment (Scotland) Act 2010 (asp 00) coming into force; and

(b) within each subsequent period of 5 years beginning with the publication of a report.

(2) When carrying out a review, the Scottish Ministers must—

(a) have regard to the incidence of offences under section 11(1A);

(b) have regard to the extent to which snares are catching types of animal which they are not intended to catch; and

(c) consult chief constables and any other such person as they consider appropriate.

(3) The Scottish Ministers must have regard to their most recent report when performing functions under the snaring regime.

(4) In this section, “snaring regime” means the provisions of this Part relating to snaring.

Elaine Murray

13 In section 13, page 15, line 4, at end insert—

11DB Snares: Scottish Ministers powers to ban use of snares

(1) The Scottish Ministers may by order ban the use, sale, offer for sale or exposure for sale of any snares by any person whether or not that person is authorised to do so under the provisions of this Part.

(2) An order under subsection (1) must—

(a) specify the term of the ban;

(b) define the understanding of snares;

(c) define the understanding of use, sale, offer for sale and exposure for sale; and

(d) make provision for the monitoring of the ban.
(3) An order under subsection (1) must not be made unless a draft of the statutory instrument containing the subordinate legislation has been laid before, and approved by resolution of, the Scottish Parliament.

(4) Before laying a draft instrument before the Parliament under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.

(5) For the purposes of such a consultation, the Scottish Ministers must—
(a) lay a copy of the proposed draft instrument before the Parliament,
(b) send a copy of the proposed draft instrument to any person to be consulted under subsection (4), and
(c) have regard to any representations about the proposed draft instrument that are made to them within 60 days of the date on which the copy of the proposed draft instrument is laid before the Parliament.

(6) In calculating any period of 60 days for the purposes of subsection (5)(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.

(7) When laying a draft instrument before the Parliament under subsection (1), the Scottish Ministers must also lay before the Parliament an explanatory document giving details of—
(a) the consultation carried out under subsection (4),
(b) any representations received as a result of the consultation, and
(c) the changes (if any) made to the proposed draft instrument as a result of those representations.”.

After section 17

Liam McArthur

54* After section 17, insert—

<Offence of being concerned in the supply or use of prescribed ingredients

Offence of being concerned in the supply or use of prescribed ingredients

(1) The 1981 Act is amended as follows.
(2) In section 15A (possession of pesticides)—
(a) in subsection (1), after “possession of” insert “, or concerned in the supply or use of,”,
(b) in subsection (2), after “possession” insert “, supply or use”.

Section 18

Peter Peacock

55 In section 18, page 27, leave out line 8 and insert—

<(i) for other imperative reasons of overriding public interest including those of significant social or economic nature and beneficial consequences of primary importance for the environment,”,>
In section 18, page 27, leave out lines 9 to 15 and insert—

“(4A) The appropriate authority shall not grant a licence under subsections (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.”.

After section 19

After section 19, insert—

<Offence of knowingly causing or permitting certain offences

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 15A of the 1981 Act (possession of pesticides), after subsection (1), insert—

“(1A) 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.”.

(4) In section 18 of the 1981 Act (attempts to commit offences 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 subsection (2) shall be guilty of an offence.”.

After section 20

After section 20, insert—

<Functions of conservation bodies

Functions of conservation bodies

In section 24 of the 1981 Act (functions of GB conservation bodies), in subsection (1)—

(a) for the word “5” substitute “A1, 1, 1A, 2, 3, 4, 5, 5A, 6, 6A”,

(b) after “opinion” insert—
“(za) any bird should be added to, or removed from, Schedule A1;
(zb) any bird should be added to, or removed from, Schedule 1;
(zc) any bird should be added to, or removed from Schedule 1A;
(zd) any bird should be added to, or removed from, Schedule 2;
(ze) any bird should be added to, or removed from, Schedule 3;
(zf) any bird should be added to, or removed from, Schedule 4;”
(c) after paragraph (a) insert—
“(aa) any animal should be added to, or removed from Schedule 5A;
(ab) any animal should be added to, or removed from Schedule 6;
(ac) any animal should be added to, or removed from Schedule 6A;”.

Peter Peacock

58 After section 20, insert—

<Reporting

Annual report on wildlife crimes

After section 26A of the 1981 Act (enforcement of wildlife legislation), insert—

“Annual report on wildlife crimes

(1) The Scottish Ministers must as soon as practicable after the end of each calendar year lay before the Parliament a report on the incidence of wildlife offences under this Act in the reporting year.

(2) In preparing a report under subsection (1), the Scottish Ministers may require wildlife inspectors to provide them with such information as they consider necessary to fulfil the requirements of that subsection.”.

Section 21

Roseanna Cunningham

15 In section 21, page 29, line 33, at end insert—

<( ) The modifications in Part 1 of the schedule have effect.>

Roseanna Cunningham

16 In section 21, page 29, line 34, after <of> insert <Part 2 of>

Schedule

Roseanna Cunningham

17 In the schedule, page 50, line 3, at end insert—
PART 1
MODIFICATIONS

In section 39(2) of the Agriculture (Scotland) Act 1948 (c.45), in the proviso, for the words from “game” to the end substitute “—

(a) black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge in the close season for that bird (within the meaning of section 2(4) of the Wildlife and Countryside Act 1981 (c.69)); or

(b) brown hare or mountain hare in close season for that hare (within the meaning of section 10A(2) of that Act);

and for the purposes of subsection (1) a person is not deemed not to have the right to comply with a requirement falling within this proviso by reason only that, apart from the proviso, compliance with the requirement would constitute an offence under section 1 or (as the case may be) 10A(1) of that Act”.

After section 27

Elaine Murray

After section 27, insert—

Duty to further the conservation of biodiversity

In section 1 (duty to further the conservation of biodiversity) of the 2004 Act, in subsection (2)—

(a) the word “and” immediately following paragraph (a) is repealed,

(b) in paragraph (b), after “Convention)”, insert “and

(c) the ecological coherence and connectivity of features of value to biodiversity.”.