Deer welfare

This paragraph appears to give landowners legal responsibility for the welfare of deer in para 70 (4) “6A (1) 2 (a) (i).

This sets a dangerous precedent because in law deer are classed as wild animals, ferae naturae, belonging to no-one – they are not owned by the landowner.

Wild animals are subject to the vicissitudes of nature and we should not interfere in how nature operates. If deer die in a cold or wet winter, or through disease or accident, this is not the landowner’s fault. Humans cannot be held responsible for the welfare of wild animals, whether deer, meadow pipits or lizards.

In practice we apply different standards to wild animals (under the control of nature, where nature’s standards operate) and domestic animals (under human control, where human standards operate). In the latter case we are responsible for animal welfare, so it would be expected that farmed deer are considered differently to wild deer.

There are cases, though, where it is reasonable for deer owners/managers be responsible for the welfare of wild deer, and this is where it is human action (rather than nature) affecting the deer, such as ensuring humane culling or the fencing off of deer migration routes. The Bill needs to clarify the situations where owners/managers might be responsible for deer welfare.

Damage to the natural heritage, overgrazing

The paragraph also uses the vague phrase of damage “to the natural heritage generally”. Deer however are part of this natural heritage, not separate from it, and any time they produce a footprint or eat a plant they are causing damage to something. There needs to be much greater clarity of what is meant by “damage” – otherwise the phrase will be overly susceptible to subjective determination.

Likewise, there is mention of deer causing “serious overgrazing of pastures”. Again, 'overgrazing' is a very subjective concept and can be hard to define: it is just that different grazing levels result in different plant communities. The word only has meaning in relation to a desired outcome.

If the phrases “damage to the natural heritage” and “overgrazing” are to be used, there needs to be a scientifically-defined, objective definition of the terms.

The whole paragraph to me appears to be ill thought out, lacking scientific rigour and demonstrating unclear thinking. Landowners might be expected to challenge legally the reasonableness of being asked to be responsible for the welfare of ferae naturae.

If humans are to be held responsible for the welfare of wild deer, then their legal status as ferae naturae needs to be changed. Additionally, if the Bill is to have status in law, then this section needs fundamentally rewriting to avoid endless arguments in the future on how the ecological terms are to be interpreted.