

BY EMAIL

6th March 2025

Dear Convenor of the Net Zero, Energy and Transport Committee,

The British Association for Shooting and Conservation (BASC) writes to express our concerns regarding Section 20 of the Land Reform (Scotland) Bill, which seeks to amend Section 52 of the Agricultural Holdings (Scotland) Act 1991. Currently, Section 52 entitles agricultural tenants to compensation for direct damage to crops caused by game where the right to take or kill game remains with the landlord. Section 20 not only broadens the scope of compensation but also introduces significant new liabilities for landowners, raising concerns about fairness, legal complexity and practical enforcement.

Under the proposed changes, compensation would be payable for damage to agricultural trees, fixed equipment, livestock and habitats. Most concerningly, it expands the definition of damage to include the causation of indirect damage, for instance pest infestation and diseases allegedly spread by game or poor game management practices. Pest species and disease transmission are influenced by a range of environmental and ecological factors, many of which extend beyond the control of game management. For example, rats are a well-known pest on farms, and their impact on crops or infrastructure is often a consequence of broader environmental conditions. Likewise, disease outbreaks have multiple potential vectors, and there is limited evidence to suggest they are primarily caused by game or game management practices.

The inclusion of causing indirect damage within the scope of compensation raises significant legal questions particularly regarding causation and the evidentiary challenges associated with disease transmission. As a result, claims against landowners could potentially encompass a wide range of losses over which they may have little or no control. Proving causation, especially in claims involving disease transmission, will likely be complex and challenging. Establishing a direct link between the actions or inactions of a landowner and the spread of disease could be difficult to substantiate with sufficient legal certainty. This is especially true when multiple potential vectors, such as wild birds, rodents or other animals, could be involved in the transmission of disease. BASC is concerned that without clear and robust evidence of direct causation, claims for compensation could be brought based on tenuous or circumstantial evidence.

Best in the field

The British Association for Shooting and Conservation Limited
Registered Society N° 28488R

BASC is a trading name of The British Association for Shooting and Conservation Limited and is authorised and regulated by the Financial Conduct Authority ref 311937

Patron: HRH The Princess Royal

President: The Lord Dear, QPM

In light of these problems, BASC believes the proposed changes under Section 20 are disproportionate and could have unintended negative consequences for landlords, landowners and the wider rural economy. The threat of heightened compensation liability might have an impact on the landscape of tenant farming in Scotland. While the intention behind the provision may be to protect agricultural tenants, it is essential that further consultation be undertaken with stakeholders, particularly those within the shooting sector, to fully understand the potential impact of these amendments.

We would be grateful if you would consider the evidence outlined above in your scrutiny of the Land Reform (Scotland) Bill at Stage 1.

Yours sincerely,
Peter Clark
Scotland Director
The British Association for Shooting and Conservation.

Best in the field

The British Association for Shooting and Conservation Limited
Registered Society N° 28488R

BASC is a trading name of The British Association for Shooting and Conservation Limited and is authorised and regulated by the Financial Conduct Authority ref 311937

Patron: HRH The Princess Royal

President: The Lord Dear, QPM