

Ref: 20231031RAI

31 October 2023

**Finlay Carson MSP**  
**Convener of the Rural Affairs and Islands Committee**  
The Scottish Parliament  
Edinburgh  
EH99 1SP



Dear Convener,

## **THE RETENTION OF HUMANE CABLE RESTRAINTS UNDER LICENCE**

I hope this finds you well. Following the announcement that the Scottish Government's intends to ban the use of snares and cable restraints as part of the Wildlife Management and Muirburn Bill, land management stakeholders met with the Minister for the Environment to discuss the possibility of retaining humane cable restraints (HCRs).

The HCR is far superior to Scotland's existing code-compliant snare which is referenced in [the latest Scottish practitioner's guide](#), and HCRs have been shown to be compliant with the International Agreement on Humane Trapping Standards (IAHTS) – thus putting them on a par with live capture traps. It was during our meeting that the Minister requested that those present come up with a proposal retain HCRs under licence for her consideration.

The licensing scheme we have devised is appended to this correspondence and provides a regulatory framework which we hope the Minister will find acceptable. You will note that there is a narrow range of licensable purposes and that the licence itself pertains to the land. To obtain a licence, NatureScot would have to be satisfied that setting a HCR is necessary for the specified purpose, and that no other method of fox control is reasonably practicable.

Moreover, to provide the Minister with further reassurance, the draft provisions necessitate the development of a statutory code for HCRs, which would prescribe in detail how HCRs are to be used. We consider this to be a critical component of the licensing scheme in which officials – in collaboration with stakeholders – could address issues such as how often HCRs are to be checked and how to reduce the likelihood of catching non-target species.

The draft licensing scheme also contains robust suspension and revocation provisions which would enable NatureScot to take action if it were satisfied that, on the balance of probabilities, an offence had been committed. All licence holders will be expected to have regard to the HCR code.

We very much hope the Minister will be minded to support this proposal, which we believe strikes the right balance by protecting animal welfare *and* enabling foxes to be managed in areas where no other method of control is practicable. It should be noted that this licensing scheme would require amendments to section 11 of the Wildlife and Countryside Act 1981, and we have provided these to officials directly.

In the interests of exploring all available avenues in relation to HCRs, we are sharing this with the Rural Affairs and Islands Committee as part of your stage 1 considerations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'RE' followed by a flourish.

**Ross Ewing**  
**Director of Moorland**  
**Scottish Land & Estates**

**PART 3**

**HUMANE CABLE RESTRAINT LICENSING**

*Humane cable restraint licences*

**1 Application for humane cable restraint licence**

(1) An owner or occupier of land may apply for a licence permitting humane cable restraints to be set to restrain red foxes (*Vulpes vulpes*) for a purpose mentioned in subsection (2), on the land to which the application relates.

(2) The purposes are—

- (i) preventing, or reducing the risk of, predation causing harm to wildlife or gamebirds,
- (ii) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables or fruit;
- (iii) preventing, or reducing the risk of, disease in people or animals;
- (iv) conserving, restoring, enhancing or managing the natural environment; and
- (v) for scientific, research or educational purposes.

(3) An application under subsection (1)—

(a) must be made—

- (i) to the Scottish Ministers, and
- (ii) in such manner and form as the Scottish Ministers may require,

(b) must—

- (i) identify the land to which the application relates,
- (ii) specify for which of the purposes mentioned in subsection (2) humane cable restraints are proposed to be used;
- (iii) include or be accompanied by such other information as the Scottish Ministers may require, and

(c) must be accompanied by payment of such reasonable fee as the Scottish Ministers may require.

## **2 Grant of humane cable restraint licence**

- (1) The Scottish Ministers shall grant a licence for humane cable restraints to be set on land to which an application under section 2 relates for a purpose specified in the application unless they are satisfied that:
  - (a) the setting of the humane cable restraint is not necessary for the specified purpose, and
  - (b) another method of red fox control is reasonably practicable on the land.
- (2) The Scottish Ministers shall determine each application for a humane cable restraint licence within the period of 30 [working] days beginning with the date on which the application was made.
- (3) The Scottish Ministers may, if they consider it appropriate to do so, grant a licence under subsection (1) in relation to only some of the—
  - (a) land to which the application relates,
  - (b) purposes specified in the application.
- (3) In this Part, “humane cable restraint licence” means a licence granted under subsection (1).

## **3 Humane cable restraint licences: content and conditions**

- (1) A humane cable restraint licence—
  - (a) must specify the person to whom it is granted,
  - (b) must identify, by reference to a map, the land to which the licence relates,
  - (c) may be granted or renewed for a period not exceeding 10 years;.
  - (d) takes effect on the earlier of:
    - (i) the date the licence application is granted by the relevant authority under subsection (1A); or
    - (ii) the date the licence application is deemed to be granted by the relevant authority under subsection (1B)
- (2) Every humane cable restraint licence is subject to the following conditions—
  - (a) the person to whom the licence is issued must have regard to the Humane Cable Restraint Code
  - (b) a person intending to set a humane cable restraint on land to which the licence relates must—
    - (i) have regard to the Humane Cable Restraint Code; and

(ii) comply with the requirements of section 11A-E of this Act.

(3) The Scottish Ministers may, if they consider it appropriate to do so, specify in a humane cable restraint licence additional reasonable conditions to which the licence is subject.

(4) Conditions which may be specified under subsection (3) include, in particular—

(a) provisions of the Humane Cable Restraint Code,

(b) conditions as to the persons, or types of person, who may set humane cable restraints on the land to which the licence relates,

(c) conditions as to the reporting of activities carried out under the licence.

35

#### **4 Humane Cable Restraint Code**

(1) The Scottish Ministers must prepare a code (the “Humane Cable Restraint Code”) in relation to how to set and operate humane cable restraints.

(2) The Humane Cable Restraint Code may, in particular, include provision as to—

(a) how often humane cable restraints are to be checked,

(b) how humane cable restraints are to be set to reduce the likelihood of catching non-target species,

(c) how to keep records.

(3) The Scottish Ministers must review and, if they consider it appropriate, revise the Humane Cable Restraint Code by the end of each review period.

(4) The Scottish Ministers must publish the Humane Cable Restraint Code prepared under subsection (1) and any revised code under subsection (3) as soon as practicable after it is prepared or, as the case may be, revised.

(5) The Scottish Ministers must, in preparing or reviewing the Humane Cable Restraint Code, consult—

(a) Scottish Natural Heritage

(b) such other persons as they consider likely to be affected.

(6) Subsection (5)(a) does not apply during any period for which the functions under this section are delegated to Scottish Natural Heritage under section 17.

(7) In this section, “review period” means—

(a) the period of 5 years beginning with the day on which section 1 comes into force, and

(b) each subsequent period of 5 years.

## 5 Modification, suspension and revocation of a humane cable restraint licence

(1) The Scottish Ministers may—

- (a) modify a humane cable restraint licence at any time,
- (b) suspend or revoke a humane cable restraint licence if they are satisfied that a relevant person has committed an offence under this Part or Section 11 to 11D of this Act,
- (c) suspend a humane cable restraint licence if, despite not being satisfied as mentioned in paragraph (b)—
  - (i) there are proceedings in relation to an offence under this Part, and
  - (ii) they are satisfied that if the accused in the proceedings were convicted of the offence, they would then be satisfied as mentioned in paragraph (b).
- (d) Before deciding (i) to refuse to grant a licence, (ii) to refuse to renew an existing licence or (iii) to modify, suspend or revoke an existing licence, the relevant authority shall give to the applicant or licence holder, as the case may be, at least 14 days prior notice of its proposed decision and the reasons therefor, and shall give to such person the opportunity to submit representations with respect to the proposed decision. Thereafter Scottish Ministers must give the person to whom the humane cable restraint licence was issued written notice of the modification, suspension or revocation of the licence within seven days from the date such decision is made.

(e) Notice under subsection (2) must give reasons for the modification, suspension or revocation of the humane cable restraint licence.

(2) The modification, suspension or revocation of the licence may not take effect until the end of—

- (a) within which an appeal under section 13A may be made has elapsed, or
- (b) such other period as the Scottish Ministers consider appropriate and specify in the notice.

(3) A humane cable restraint licence is of no effect while suspended.

(4) A court which convicts a person of an offence under this Part must notify the Scottish Ministers (or Scottish Natural Heritage if the functions under this section have been delegated to that body under section 17) of the conviction.

(5) Licences may be suspended for a period up to a maximum of [X days/weeks].

(6) In this section—

“official investigation” means an investigation by the Police Service of Scotland,

“relevant person” means—

- (a) the person to whom the humane cable restraint licence was issued,
- (b) any other person involved in managing the land to which the humane cable restraint licence relates for the purposes of using a humane cable restraint under the licence.

## **6 Appeals relating to humane cable restraint licences**

- (1) person may appeal to the appropriate sheriff against a decision of the relevant authority to—
- (a) refuse to grant to the person a humane cable restraint licence,
  - (b) attach a condition to the person's a humane cable restraint licence,
  - (c) modify, suspend or revoke the person's humane cable restraint licence.
- (2) Where an appeal is taken under section 13A the sheriff may—
- (a) on the application of the appellant, and
  - (b) if satisfied on the balance of convenience that it is appropriate to do so, recall the decision of the relevant authority pending determination of the appeal.

### *Miscellaneous*

## **7 Delegation**

- (1) The Scottish Ministers may delegate the following functions to Scottish Natural Heritage —
- (a) the application and granting of humane cable restraint licences under sections 2 and 3,
  - (b) the modification, suspension and revocation of humane cable restraint licences under section 5,
  - (c) the preparation, publication, review and revision of the Humane Cable Restraint Code under section 4,
- (2) Any delegation must be made by written direction.
- (3) Unless it specifies otherwise, a delegation under this section includes power to modify, suspend or revoke licences granted before the direction is made.
- (4) The Scottish Ministers may modify or revoke a direction.
- (5) Any licence which is in effect at the time a direction is revoked continues in effect following the revocation of the direction (unless the revocation specifies otherwise).

## **8 Interpretation of Part**

- (1) In this Part—

A “humane cable restraint” has the meaning given in Section 11(1A) of this Act

“Humane Cable Restraint Code” is to be construed in accordance with section 4(1) and includes any supplementary material.