

Finlay Carson MSP
Convener
Rural Affairs and Islands Committee
Scottish Parliament

29 May 2025

Dear Finlay,

Natural Environment (Scotland) Bill

Thank you for your letter of 20 May requesting further information from NatureScot. Please find my response to your questions below.

1. In response to a question from Tim Eagle MSP, Donald Fraser agreed to provide further information on the figures and criteria used in the financial memorandum to benchmark costs of implementation and regulation, especially in terms of predicting the number of times NatureScot would intervene under the new powers provided in the Bill.

The figures in tables 13, 14 & 15 of the Financial Memorandum give an estimate of the costs of implementing regulatory provisions (deer management plans, deer control agreements and control schemes). These are based on NatureScot's experience of using regulatory powers under the current provisions within the Deer Scotland Act. We have expressed these figures by the number of times we could theoretically implement each of the regulatory provisions;

- Table 13 gives the cost to NatureScot of administering a deer management plan under section 6A for one, three and five plans per year.
- Table 14 gives the cost to NatureScot of administering a deer control agreement under section 7 for one, three and nine agreements per year.
- Table 15 gives the cost to NatureScot of administering a deer control scheme under section 8 for one and two schemes per year.

The aim is to articulate an estimate of the costs of regulation to NatureScot if we were to use new regulatory powers to intervene on the basis of preventing damage or enhancement / restoration. It is important to stress that this does not represent a target or an aspiration; this

is an articulation of the expected maximum levels of application based on current resource. For clarity, NatureScot is not likely to initiate nine *new* section 7 voluntary control schemes per year but have capability of managing up to nine at any point in time. Historically, up to eight Section 7 agreement have been managed at any one time as part of the Joint Working process with other agencies.

Our application of regulation is based on the principles of better regulation. A risk assessment approach is used to consider use of regulatory powers on a case-by-case basis. Moreover, progression of a case from section 6A (plan) to section 7 (agreement) and from section 7 to section 8 (control scheme) or section 10 (other measures) is dependent on the success of otherwise of each stage. A planned and prioritised approach to the use of regulation allows NatureScot to intervene where appropriate and necessary.

2. When discussing the provisions in relation to the register for authorised persons, you committed to provide data to the Committee on how many stalkers in Scotland are already DSC level 1 qualified. You also agreed to come back to the Committee with further information on the authorisation process, in terms of someone being on the register who does not have the DSC1 qualification.

The latest figures form Deer Management Qualifications Ltd (<https://www.dmq.org.uk/>) the organisation that oversees DSC 1 and DSC 2 are:

	Registered	Completed
DSC1 UK	35,326	32,975
DSC2	9,433	6,079

We do not have accurate figures for DSC1&2 qualified people who are resident in Scotland. The Deer Working Group stated that in 2018 there were 5,429 DSC1 and 1,832 DSC2 qualified people domiciled in Scotland, with an additional 346 DSC1 holders and 104 DSC2 holders living in the 100km² that straddled the Scotland/ England border, but it was unknown in which country those people resided.

It is worth noting that the Proficient Deer Stalking Certificate is approved by LANTRA and UK Rural Skills, as well as Forestry and Land Scotland and Nature Scot. We are working with LANTRA to ensure a consistent, coherent and modernised qualifications framework for the future.

Police Scotland collate data on Firearms Certificate holders in Scotland. The latest figures state that there are 25,145 FAC holders resident in Scotland (31 March 2024). Not all FAC

holders will be actively stalking deer but this is a useful proxy for estimating the deer stalking resource in Scotland.

The Bill proposes a regulation making power to establish a register of persons competent to shoot deer that will also be a register of authorisations for specified activities. NatureScot will establish and manage the register and set the criteria and detail required for registration.

The register will reinforce and enhance public confidence that public safety and deer welfare are paramount in the way deer are managed in Scotland. It will provide an opportunity to demonstrate and enhance the already high standards of training and expertise amongst practitioners and reflect the importance of best practice in deer management.

NatureScot recognises the concerns of the sector and will work closely with key stakeholders throughout the process of designing and establishing the register. We will ensure that:

- This does not provide an unnecessary barrier to effective control of deer populations. Ensure that the transition to the implementation of a register is planned and considered fair and proportionate.
- Minimum competencies reflect the industry standards for training and qualifications and seek to modernise and update these where appropriate.
- Registration for authorised activities is evidenced by appropriate training and/ or experience.

With regard to someone being on the register who does not have the DSC1 qualification; we will consider whether a referee system and period of 'grace' prior to mandatory training so that experienced practitioners are not excluded through lack of formal training.

3. You agreed to outline what preparatory work was being undertaken by NatureScot in developing the Code of Practice in order to reflect the proposed new powers. It would also be helpful if you could set out your expectations of the timetable for revising the Code of Practice.

The requirement for a Code of Practice on Deer Management was brought in by WANE Act 2011. The current code came into effect on 1 January 2012. It was prepared by NatureScot with input from stakeholders and approved by the Scottish Parliament following a public consultation.

The Deer Code sets out how land managers can deliver sustainable deer management. It specifies land managers' responsibilities and helps them to identify what they must do, should and could do to manage deer sustainably. It stresses the importance of managing deer collaboratively, of engaging with neighbours and of planning together. As a result, it is relevant for a wide audience, which includes: landowners, tenant farmers, recreational

stalkers, crofters, upland deer managers. All of Scotland's wild deer species and the habitats on which they are found are covered by the Deer Code. It supports a voluntary approach to deer management but also outlines how and when NatureScot may intervene in a regulatory capacity.

NatureScot is committed to developing the Deer Code, taking account of the proposed Natural Environment Bill provisions and the wider context of the climate and biodiversity crises. We see this as a process of refining the current Code, retaining the existing approach and general format but importantly, updating the content in terms of current public interest and the grounds for intervention for the new purposes around restoration and enhancement (section 6ZB) and examples of how the new measures could be used.

NatureScot is committed to working with stakeholders to co-design the revised Code of Practice on a similar approach used to developing the existing code, the code of practice for grouse moor management and the development of new muirburn code. We will seek the views and engagement of the principal interests engaged in the Deer Management Round Table and our intention is to form a working group of key stakeholders from DMRT membership to develop the Code accordingly. We will begin work on the revision of the Code over the summer of 2025 and are currently putting in place plans to manage this process.

We will start to develop the new Code as the Bill progresses through Parliament with aim of having a draft for wider consultation next spring shortly after the expected conclusion of the Natural Environment Bill. We will ensure the Code reflects the detail in the Act and accounts for amendments and any other changes to the current proposed Bill. The final draft Code will be submitted to Scottish Ministers for approval by the Scottish Parliament.

4. Stakeholders asked for an explanation of why NatureScot should be added to advisory panels, rather than acting as an observer on them or operating independently of them entirely.

This proposal came from the Deer Working Group recommendations (#95). The current situation is that NatureScot staff facilitate and organise panels and this change would allow NatureScot staff to actively participate and inform panel discussions. Advisory panels can have a range of relevant individuals, and our view is that this minor change will allow NatureScot, as Scottish government's principle advisors on deer management to better advise and support the work of a panel, to ensure more effective outcomes.

5. Stakeholders raised a need for clarity on when section 6ZB may be used to intervene and at what timescales, with case studies acting as a guide. Stakeholders also wanted clarity as to which plans and targets would be relevant to section 6ZB.

Please see below some examples of case studies as a guide to where NatureScot could use the new ground for intervention on nature restoration (section 6ZB).

Transition between upland and lowland Scotland

- Significant areas of the country are on the edge of the traditional red deer, open hill range e.g. Morayshire, Aberdeenshire, Perthshire, and parts of the central belt. These areas have a mix of fringe areas to traditional uplands and include woodland (commercial and native) and varied agricultural land uses, often in smaller, more fragmented land ownerships. Effective collaborative deer management of a herding species in this context is difficult and often lacking as these areas are outwith formal collaborative deer management groups.
- The new ground for intervention could be used where native woodland regeneration, new woodland planting, riparian habitat restoration or peatland restoration projects are proposed that support strategic biodiversity, climate and hydrological outcomes. Fencing may be uneconomical and deer management is taking place, but a minority of neighbouring properties are unwilling or unable to manage deer to low enough thresholds to protect the public interest or public investment.
- The new ground for intervention would allow NatureScot to ensure all properties engage in collaborative deer management planning and action. Support could include deer census and habitat impact assessment to determine cull targets.

Upland habitats – peatland restoration

- Red deer populations move across the upland, open range and in locally significant numbers can impact on habitats through overgrazing and trampling. NatureScot supports the voluntary approach to collaborative deer management through Deer Management Groups.
- An example would be a peatland restoration project within an area covered by a National Park Partnership Plan. Here, multiple landholdings are seeking to reduce deer densities to restore peatland, but a single landholding wishes to retain higher densities.
- The new ground for intervention would drive *proactive* deer management to support and ensure the establishment and success of the restoration project. Previously regulatory action could only be taken where the neighbouring deer densities were damaging already established remedial works. For the enhancement project to succeed deer impacts need to be reduced before or during the restoration work being undertaken.

Central belt – peri-urban setting

- Aim is to seek assurance that longer term deer management measures are in place to help deliver 30x30 commitments or landscape scale restoration projects outlined in the Scottish Biodiversity Strategy or to facilitate the delivery of nature networks outlined in National Planning Framework 4 e.g. the Seven Lochs Wetland Park and Climate Forest project areas.
- Context is a mix of Local Authority and privately owned land, small to medium scale e.g. country parks, greenspace, public amenity areas often associated with community owned woodlands. Geographically fragmented and within a wider sub/urban, urban fringe/agricultural landscape. Where roe deer, and expanding red deer populations, may be having an impact.
- Objective is for NatureScot to facilitate and support the measures required to deliver biodiversity projects. Measures may include assurance that effective deer management is in place which could include all or any of; culling, fencing, tree protection, educating and outreach/community engagement.
- New ground for intervention will provide the regulatory backstop to facilitate deer management to deliver nature networks and 30x30.

The Bill describes a relevant target, strategy or plan as being required by an enactment or published by Scottish Ministers or a public body. We see this working as a nested hierarchy, with local projects located within regional plans under national strategies.

For example, a conservation or nature restoration project which preserves, protects, restores, enhances or otherwise improves the natural heritage or environment (for example a native woodland regeneration or peatland restoration project) delivering outcomes set by a national strategy or plan published by Scottish Ministers or a public body (for example National Park Partnership Plan, Scottish Biodiversity Strategy Delivery Plan, Scottish Climate Change Plan, River Basin Management Plan) and will deliver SBS or climate adaptation outcomes such as establishment of Nature Networks or improvements to flooding and surface water management.

Examples of relevant strategies and plans (and targets set by these) could include:

- National strategies - public policy outcomes
 - Scottish Biodiversity Strategy
 - Scottish Climate Change Plan
 - Scottish National Adaptation Plan (SNAP)
 - National Planning Framework 4
 - Scotland's Flood Resilience Strategy
 - Scottish Forestry Strategy
- Regional plans – agreed Scottish Government priority outputs

- Landscape scale nature restoration projects (identified through the SBS Delivery Plan)
- Cairngorms National Park Partnership Plan
- Loch Lomond and the Trossachs National Park Plan
- Regional Landuse Partnership Plans
- River Basin Management Plans
- Climate Forest areas (eg Clyde, Forth etc)
- Nature Networks and LDP's

6. Stakeholders asked for an explanation of the reasons behind proposals in the Bill to change timescales for making objections from 28 days to 14 and reducing the standard notice period for entry onto land from 14 working days to 5.

Change in timescales for making objections from 28 days to 14

This proposal refers to s8 (control schemes), specifically to the timescale in which an owner or occupier can object to a decision by Scottish Ministers to confirm, modify or reject a section 8 proposal. For context, the process for confirming a section 8 (control scheme) can be summarised as:

- An existing section 7 (control agreement) has failed to deliver the agreed level of deer management and NatureScot have taken the decision to move to a section 8 (control scheme).
- NatureScot has given notice to each relevant person who can object to the proposal to Scottish Ministers within 28 days of the notice being served.
- Scottish Ministers have considered the objection (which may involve referral to experts for advice).
- Once considered, Scottish Ministers confirm, modify or reject the objection and give notice of any modifications to relevant owners or occupiers. A relevant person can object to any modifications, and it is the period of this stage that has been reduced from 28 to 14 days.
- Furthermore, if a relevant person is still aggrieved by the decision they may appeal to the Scottish Land Court within 28 days.

-

Our view is that this is part of a wider drive to streamline regulation and remove barriers to action. We do not consider the reduction in the timescale to be unreasonable given the wider context and opportunity for objections and appeals, including to the Scottish Land Court.

Reducing the standard notice period for entry onto land from 14 working days to 5

This proposal came from the Deer Working Group report recommendation #64, and relates to the power to enter onto land under section 15 of the 1996 Act, namely;

- for the purposes of taking a census of deer in pursuance of ...functions under section 1(1) ie NatureScot's aims and purposes
- to determine whether...functions under section 7 (control agreements) or 8 (control schemes) should be exercised
- for the purpose of exercising any of its functions under section 7 or 8, and
- to check compliance with any requirement placed on a person under the 1996 Act.

Our view is that this is part of a wider drive to streamline regulation and remove barriers to action. We do not consider the reduction in the notice period to be unreasonable.

I trust this answers the Committee's questions, please don't hesitate to contact me if you require further clarification or additional information.

Yours sincerely,

Robbie Kernahan

Director of Green Economy