



Finlay Carson  
Convenor of the Rural Affairs, Islands and Natural Environment Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Sent by email only

13 July 2022

Dear Convenor,

**Further information - Evidence Session 22 June 2022 – Hunting with Dogs (Scotland) Bill**

We would like to take this opportunity to thank the Committee for the opportunity to give evidence on this Bill on 22 June 2022.

The Committee has requested further information and we welcome the opportunity to provide this.

- **Does the Law Society of Scotland wish to elaborate on comments within the written submission about the lack of definition of “consent or connivance” and the appropriateness of the three-year window for prosecutions?**

In respect of the appropriateness of the three-year window for prosecutions, we concede that the Bill follows the precedent set out in previous legislation. As a result, we make no further comment here.

In respect of the comments in our written submissions relating to the lack of definition of “consent or connivance”, we acknowledge that the phrase has been used in various examples of legislation including the Bribery Act 2010 and the Antisocial Behaviour etc (Scotland) Act 2004 and is used in order to establish liability for criminal offences against corporations and individuals acting within corporations. While we note that a similar mechanism is proposed within the Bill under section 15, we would reiterate our view that a definition of the phrase within the Bill would be beneficial. As set out in the Bill’s Policy Memorandum, the intention of the Bill is to promote easier understanding and enforcement of the law relating to hunting with dogs. We favour that a definition be included within the Bill which would ensure clarity and prevent uncertainty in its interpretation.

- **Would the Law Society of Scotland wish to make further comment on the absence of vicarious liability and the reverse burden of proof in the Bill?**

We note that Lord Bonomy has given specific consideration to these issues within his report of the review of the Protection of Wild Mammals (Scotland) Act 2002.



We would not propose to reiterate the considered position of Lord Bonomy and note that the Committee will no doubt be familiar with the conclusions of that report.

As regards vicarious liability, we would echo Lord Bonomy's concerns in terms of investigative difficulties in establishing the identity of any landowner who gives a hunt permission to use their land and also in relation to the difficulties in proving that a contravention has occurred.

With particular respect to reversing the burden of proof, we are firmly of the view that this proposal is incompatible with the rights as set out in Article 6 of the European Convention on Human Rights. It is our view that any move to reverse the burden of proof within the Bill would set a dangerous precedent which could result in legal challenges and unintended consequences.

We hope that the above information is of assistance to the Committee. If the Committee requires any further clarification and/or information we will be happy to assist in any way that we can.

Yours sincerely

Ann Marie Partridge  
Policy Executive and Secretary to the Criminal Law Committee