

# Natural Environment (Scotland) Bill

[AS AMENDED AT STAGE 2]

---

---

## CONTENTS

Section

### PART 1

#### TARGETS FOR IMPROVING BIODIVERSITY

- 1 Targets for improving biodiversity
- 1A Reports on compliance with biodiversity duty
- 1B Environmental protection requirement

### PART 3

#### NATIONAL PARKS

##### *Modification of aims and purposes of National Parks*

- 5 Aims of National Parks

##### *Policy statement on National Parks*

- 5A Policy statement on National Parks
- 6 Definition of biodiversity

##### *Duties in respect of National Parks*

- 7 Duty to facilitate implementation of National Park Plans

##### *National Park authorities as local authorities for access rights*

- 8 Meaning of local authority for the purpose of access rights

##### *Enforcement of National Park byelaws*

- 9 Power to make regulations for the issuing of fixed penalty notices

### PART 4

#### DEER MANAGEMENT

##### *Aims and purposes of deer management*

- 10 Aims and purposes of deer management

##### *Membership of advisory panels*

- 11 Scottish Natural Heritage representation on advisory panels

*Code of practice on deer management*

12 Code of practice on deer management

*Deer management plans, control agreements and control schemes*

- 13 Grounds for intervention
- 14 Deer management plans
- 15 Control agreements
- 16 Control schemes
- 17 Recovery of costs and expenses
- 18 Limitation of criminal liability

*Preventing or stopping damage by deer*

- 19 Measures to prevent damage by deer
- 20 Action to prevent or stop harm to persons

*SNH investigatory powers*

- 21 Power to enter on land
- 22 Power to require information and documents
- 23 Giving notices electronically

*Authorisations for particular activities*

- 24 Authorisation for taking or killing deer during close seasons
- 25 Authorisation for taking or killing deer at night
- 26 Authorisation for use of vehicles to drive deer
- 27 Offence of shooting deer with a shotgun
- 28 Register of authorised persons
- 29 Repeal of obligation to carry out competence review
- 30 Requirement to be fit and competent for certain authorisations
- 31 Repeal of saving of right to take deer on land
- 31A Right of occupier or grazings committee to prevent damage by deer

*Stray farmed deer*

- 32 Liability for taking or killing stray farmed deer

*Licensing of dealing in venison*

- 33 Removal of requirements related to licensing to deal in venison
- 33A Review of modifications to the Deer (Scotland) Act 1996

**PART 4A**

## BUILDING REGULATIONS: INTEGRAL SWIFT NEST BOX

- 33B Building regulations: integral swift nest box

**PART 4B**

## MARINE PLANNING

- 33C Nature conservation marine protected areas: climate adaptation

**PART 4C**

GULLS

33D Gull numbers

**PART 4D**

SCALLOP SHELLS

33E Clean scallop shells: exclusion from waste and animal by-product controls

**PART 5**

MISCELLANEOUS AND GENERAL

*Miscellaneous*

33F Licensing: land on which certain birds may be killed or taken

34 Meaning of public authority etc. in the Nature Conservation (Scotland) Act 2004

34A Procedure to approve improvement plans

*General*

35 Regulations

36 Ancillary provision

37 Commencement

38 Short title



Amendments to the Bill since the previous version are indicated by sidelining in the right margin. Wherever possible, provisions that were in the Bill as introduced retain the original numbering.

# Natural Environment (Scotland) Bill

## [AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision about setting targets relating to biodiversity; to confer on the Scottish Ministers a power to modify certain legislation in relation to environmental impact assessments and habitats; to make provision in relation to national parks; to make provision in connection with the management of deer; and for connected purposes.

5

### PART 1

#### TARGETS FOR IMPROVING BIODIVERSITY

#### 1 Targets for improving biodiversity

- (1) The Nature Conservation (Scotland) Act 2004 is modified as follows.
- (2) Before section 1, insert—

10

*“General duty to further conservation of biodiversity”.*

- (3) After section 2A, insert—

*“Duties in respect of biodiversity targets*

#### 2B Purpose of setting targets

15

The targets to be set under this Part are to provide a means of supporting and measuring the progress being made in respect of—

- (a) the implementation of the biodiversity strategy designated under section 2(1), and
- (b) generally, the duty under section 1.

#### 2C Duty to set targets

20

- (1) The Scottish Ministers may, by regulations, make provision for and in connection with targets in relation to—

- (a) any matter which relates to any of the following topics—

25

- (i) the condition or extent of any habitat,
- (ii) the status of any species (including in particular those which are or may become threatened),
- (iii) the environmental conditions for nature regeneration, and

- (b) any other matter relating to the restoration or regeneration of biodiversity as they consider appropriate.
- (2) The Scottish Ministers must exercise the power under subsection (1) so as to—
- 5 (a) set at least one target in respect of each of the topics described in paragraph (a) of that subsection, and
- (b) specify the manner in which, or indicators against which, progress toward and achievement of the target being set is to be measured.
- 10 (3) A draft of a Scottish statutory instrument (or drafts of Scottish statutory instruments) containing regulations setting a target for a matter relating to each of the topics in subsection (1)(a) must be laid before the Scottish Parliament within 12 months of section 1 of the Natural Environment (Scotland) Act 2026 coming into force.
- 15 (4) Regulations under this section are subject to the affirmative procedure (but see also section 2F).

#### **2CA Setting targets: statements**

- (1) When setting any targets under section 2C, the Scottish Ministers must prepare a statement setting out—
- 20 (a) the approach the Scottish Ministers intend to take to ensure that the targets are met,
- (b) the cost of the approach set out under paragraph (a),
- (c) the anticipated timeline of the approach set out under paragraph (a),
- (d) the organisations, or types of organisations, with which the Scottish Ministers intend to work to ensure that the targets are met,
- 25 (e) how the targets support or have regard to other relevant Scottish Government policies or strategies,
- (f) how the Scottish Ministers intend to monitor and evaluate progress towards meeting the targets through measures or indicators identified in section 2C(2)(b),
- 30 (g) the potential implications and consequences if the targets are not met, and
- (h) the actions the Scottish Ministers intend to take if the targets are not met.

#### **2D Duties in relation to meeting targets**

- 35 (1) It is the duty of the Scottish Ministers to ensure that each target set under section 2C is met.
- (2) For the purpose of this section, a target is met if the measures or indicators specified in relation to the target in question are met, or as the case may be, achieved.
- 40 (3) Subsection (4) applies if—
- (a) a target is not met, or

(b) the Scottish Ministers believe that it is no longer possible for a target to be met.

(4) The Scottish Ministers must—

(a) lay before the Scottish Parliament a statement setting out—

(i) their view as to why the target was not met or, as the case may be, is no longer possible to meet, and

(ii) the steps that they intend to take as a consequence of the target not being met or their belief that it is not possible to meet it, and

(b) as soon as reasonably practicable, lay before the Scottish Parliament a draft of a Scottish statutory instrument (or drafts of Scottish statutory instruments) containing regulations under section 2C(1) which revoke the target and set a new one.

*Review of targets, topics and requirements to report*

**2E Reviewing progress and power to adjust topics**

(1) The Scottish Ministers must—

(a) carry out such reviews in relation to the targets set under section 2C(1) as they consider appropriate,

(b) not less than once in each 3-year period, prepare a report on the progress made towards meeting the targets during the period, and

(c) not less than once in each 10-year period—

(i) carry out a review of the targets set under, and the topics described in, section 2C(1), and

(ii) prepare a report on the review.

(2) When carrying out a review under subsection (1), the Scottish Ministers must seek and have regard to scientific advice in relation to the targets set under, and topics described in, section 2C(1) from such persons as the Scottish Ministers consider to be independent and to have relevant expertise.

(3) The Scottish Ministers may combine a report prepared under subsection (1)(b) with a report required under section 2(7).

(4) The Scottish Ministers must, in respect of each report prepared under this section—

(a) lay the report before the Scottish Parliament,

(b) make a statement to the Parliament in relation to the report (or, in the case of a combined report, the report in so far as it relates to the targets set under section 2C(1)), and

(c) publish the report in a manner they consider appropriate.

(5) The Scottish Ministers may, by regulations, add to or amend the topics described in section 2C(1).

(6) Regulations under subsection (5) are subject to the affirmative procedure (but see also section 2F).

- (7) For the purpose of subsection (1)—
- (a) the first 3-year period and first 10-year period begin on the day on which section 1 of the Natural Environment (Scotland) Act 2026 comes into force, and
  - (b) each subsequent period begins with the date of publication of the previous report.

*Process for setting or amending targets or adjusting topics*

**2F Process for setting or amending targets or adjusting topics**

- (1) Before making regulations under section 2C(1) or 2E(5), the Scottish Ministers must—
- (a) seek and have regard to scientific advice in relation to any target the regulations would set or the amendments they would make to the targets or, as the case may be, to the topics, from such persons as the Scottish Ministers consider to be independent and to have relevant expertise,
  - (aa) consult such persons as the Scottish Ministers consider may have an interest in, or otherwise be affected by, the regulations, and
  - (b) in the case of regulations which would set or amend a target, be satisfied that the target, or amended target, can be met.
- (2) But the requirement to seek advice under subsection (1)(a) does not apply if—
- (a) the regulations are being made in consequence of a review under subsection 2E(1), and
  - (b) the Scottish Ministers are satisfied that the advice provided in respect of the review is sufficient.
- (3) The Scottish Ministers must, at the same time as laying any regulations under section 2C(1) which amend a target or under section 2E(5) which amend a topic, lay before the Scottish Parliament a statement setting out why they consider it appropriate to amend the target or, as the case may be, topic.
- (4) The requirement to lay a statement under subsection (3) does not apply if a statement has already been laid under section 2D(4)(a) in respect of the amendment in question.
- (5) The Scottish Ministers may make regulations under section 2C which revoke or diminish a target (the “existing target”) only if—
- (a) they are required to do so by virtue of section 2D(4)(b),
  - (b) they are satisfied that meeting the existing target would have no significant benefit compared with not meeting it or with meeting a diminished target, or
  - (c) changes in circumstances or scientific knowledge since the existing target was set or last amended mean that the target or any indicator or other means by which progress toward the target is measured is no longer appropriate.
- (6) If, before the day on which this section comes into force (and whether before or after the Bill for the Natural Environment (Scotland) Act 2026 was passed),

anything was done which, had it been undertaken after that day, would to any extent have satisfied paragraph (a) or (aa) of subsection (1), that paragraph is or, as the case may be, those paragraphs are to that extent to be taken to have been satisfied.

5

*Independent review*

**2G Independent review**

- (1) Environmental Standards Scotland is to—
- (a) review each report prepared by the Scottish Ministers under section 2E(1), and
  - (b) assess the manner in which the Scottish Ministers seek independent advice in compliance with their duties under sections 2E(2) and 2F(1).
- (2) Environmental Standards Scotland is to prepare and publish a report on the outcome of each—
- (a) review under subsection (1)(a), and
  - (b) assessment under subsection (1)(b).
- (3) Before publishing a report under subsection (2), Environmental Standards Scotland must—
- (a) send a copy of the report to the Scottish Ministers, and
  - (b) lay a copy of the report before the Scottish Parliament.
- (3A) The Scottish Ministers must, as soon as reasonably practicable after a report is published under subsection (2), lay a statement before the Scottish Parliament setting out any action the Scottish Ministers intend to take as a result of the report.
- (3B) The requirement to lay a statement under subsection (3A) does not apply if a statement made under section 2E(4) has already set out the action the Scottish Ministers intend to take as a result of the report.
- (3C) A statement under subsection (3A) may be combined with a statement under section 2D(4) or 2F(3).
- (4) The Scottish Ministers may by regulations amend this section to specify a different person to carry out the assessing, reviewing and reporting functions conferred.
- (5) Regulations under this section are subject to the affirmative procedure.
- (6) The duty in subsection (1)(b) does not apply in respect of the Scottish Ministers' first exercise of the power under section 2C(1) to set the targets required by subsection (2) of that section.”.

10

15

20

25

30

35

- (4) In section 53 (orders and regulations: general), in subsection (4), after “sections” insert “2C, 2E, 2G,”.

**1A Reports on compliance with biodiversity duty**

- (1) The Nature Conservation (Scotland) Act 2004 is modified as follows.
- (2) For section 2A substitute—

40

**“2A Reports on compliance with biodiversity duty**

- (1) Each specified public body or office holder must prepare and publish a biodiversity report in relation to each specified period.
- (2) A biodiversity report is a report on the actions taken by the specified public body or office holder in pursuance of its duty under section 1 during the period to which the report relates.
- (3) A report under this section—
- (a) is to be prepared in such form and published in such manner as the public body or office holder thinks fit,
  - (b) may be incorporated within another report prepared or published by the body.
- (4) The Scottish Ministers may by regulations make provision about biodiversity reports including, in particular, provision specifying—
- (a) the public bodies and office holders which are required to prepare and publish a biodiversity report under this section,
  - (b) the periods in relation to which reports are to relate,
  - (c) particular information that must be included in a biodiversity report.
- (5) A period specified under subsection (4)(b)—
- (a) may be specified by reference to a specific date or by reference to the frequency with which biodiversity reports are to be prepared and published, but
  - (b) must require a report to be published by a specified public body or office holder at least once every 3 years.
- (6) In this section, “specified” means specified in the regulations made under subsection (4).”.

**1B Environmental protection requirement**

- (1) For the purpose of this Part, the “environmental protection requirement” is the requirement that any exercise of the powers contained in this Part must not reduce the overall standards of environmental protection which are in effect at the time of the exercise of the power.
- (2) But, provided that the Scottish Ministers are satisfied that the overall environmental protection is not reduced, it is not a breach of the environmental protection requirement for the powers to be exercised in a manner which prioritises—
- (a) the preservation or enhancement of biodiversity and the natural environment, or
  - (b) the need to address the challenges posed by climate change.

**PART 3**

NATIONAL PARKS

*Modification of aims and purposes of National Parks*

**5 Aims of National Parks**

- 5 (1) The National Parks (Scotland) Act 2000 is modified as follows.  
(2) For section 1 (the National Park aims), substitute—

**“1 The National Park aims**

- (1) In this Act, references to the National Park aims are to the following aims in relation to the area of a National Park—

- 10 (a) to conserve and enhance the area’s natural and cultural heritage,  
(b) to promote sustainable management and use of the area’s natural resources,  
(c) to promote public understanding and enjoyment of the area’s natural and cultural heritage, and  
15 (d) to promote sustainable economic, social and cultural development of the area’s communities.

- (2) Without limit to the generality of subsection (1), those aims include—

- 20 (a) restoring and regenerating biodiversity in the area,  
(b) mitigating and adapting to climate change,  
(c) supporting access to and within the area,  
(d) encouraging recreation in the area,  
(e) promoting sustainable tourism and visitor management, and  
25 (f) promoting sustainable development activity which improves the health and wellbeing of individuals and the prosperity of communities within the area.

- (3) The Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder must, in exercising functions so far as affecting a National Park (and only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters), have regard to the National Park aims set out in subsection (1).

- (4) For the purposes of this section, a reference to any other public body or office-holder is a reference to any other—

- 30 (a) Scottish public authority, and  
35 (b) so far as not falling within paragraph (a), cross-border public authority (but only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters).”

- (3) In section 9(6) (general purpose and functions of National Park authority), for “1(a)” in each place it occurs substitute “1(1)(a)”.
- (4) In section 31(1) (application in relation to marine areas), for “1(d)” substitute “1(1)(d)”.

- (5) In paragraph 3 of schedule 3, for “special qualities of the National Park” substitute “National Park area’s natural and cultural heritage”.

*Policy statement on National Parks*

**5A Policy statement on National Parks**

- (1) The National Parks (Scotland) Act 2000 is modified as follows.  
(2) After section 1 (the National Park aims) insert—

**“1A Policy statements by the Scottish Ministers**

- (1) The Scottish Ministers must, for each reporting period, prepare and publish a National Parks policy statement.
- (2) The policy statement must in particular set out—
- (a) the Scottish Ministers’—
- (i) policy direction in relation to National Parks,
- (ii) vision for National Parks, and
- (iii) proposed outcomes resulting from the policy direction and vision,
- (b) how new and existing duties on public bodies in relation to National Parks are expected to operate.
- (3) In this section, the “reporting period” is the period of 10 years beginning with day on which section 5 of the Natural Environment (Scotland) Act 2026 comes into force and each subsequent period of 10 years.”.

**6 Definition of biodiversity**

- (1) Section 35 of the National Parks (Scotland) Act 2000 (interpretation) is modified as follows.
- (2) In subsection (1), before the definition of “community council”, insert—
- ““biodiversity” has the same meaning as “biological diversity” in the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or in any United Nations Convention replacing that Convention),”.

*Duties in respect of National Parks*

**7 Duty to facilitate implementation of National Park Plans**

- (1) Section 14 of the National Parks (Scotland) Act 2000 (duty to have regard to National Park Plans) is modified as follows.
- (2) The existing text becomes subsection (1).
- (3) In that subsection, for “have regard to” substitute “facilitate the implementation of”.
- (4) After that subsection, insert—
- “(2) The duty in subsection (1) applies to the Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder only so

far as is consistent with the proper exercise of their other functions (and only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters).

(3) For the purposes of this section, a reference to any other public body or office-holder is a reference to any other—

(a) Scottish public authority, and

(b) so far as not falling within paragraph (a), cross-border public authority (but only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters).”.

(5) The section title becomes “**Duty to facilitate implementation of National Park Plans**”.

*National Park authorities as local authorities for access rights*

**8 Meaning of local authority for the purpose of access rights**

(1) Section 32 (interpretation of Part 1) of the Land Reform (Scotland) Act 2003 is modified in accordance with subsection (2).

(2) In the definition of “local authority”—

(a) the “and” immediately following paragraph (a) is repealed,

(b) after paragraph (a), insert—

“(aa) where the land is within an area designated as a National Park under the National Parks (Scotland) Act 2000 after the coming into force of this section, and the designation order specifies that the National Park authority for the land is to be the local authority for the purpose of this Part, that National Park authority, and”.

(3) The National Parks (Scotland) Act 2000 is modified in accordance with subsections (4) and (5).

(4) In section 7 (designation orders), in subsection (1)—

(a) the “and” immediately following paragraph (c) is repealed,

(b) after paragraph (c), insert—

“(ca) specify whether the National Park authority is a local authority for the purposes of Part 1 of the Land Reform (Scotland) Act 2003, and”.

(5) In section 30 (modification and revocation of designation orders), in subsection (2)(a)(iii), after “section 7(1)(c)” insert “, (ca)”.

*Enforcement of National Park byelaws*

**9 Power to make regulations for the issuing of fixed penalty notices**

(1) The National Parks (Scotland) Act 2000 is modified as follows.

(2) After section 26, insert—

*“Enforcement of National Park byelaws***26A Fixed penalty notices for National Park byelaw offences**

- 5 (1) The Scottish Ministers may by regulations make provision for and in connection with the issuing of fixed penalty notices for offences against National Park byelaws made under paragraph 8 of schedule 2 and specified under subsection (2)(a).
- (2) Regulations under this section must specify—
- 10 (a) the byelaws in relation to which fixed penalty notices may be issued, and
- (b) the persons who may issue fixed penalty notices.
- (3) The persons who may be specified for the purposes of subsection (2)(b) are—
- 15 (a) the persons, or categories of persons, that a National Park authority has authorised in writing for the purpose of issuing fixed penalty notices, and
- (b) such other persons, or categories of persons, as the Scottish Ministers consider appropriate.
- (4) A fixed penalty notice provided for in regulations under this section must state—
- 20 (a) the byelaw to which it relates,
- (b) particulars of the circumstances alleged to constitute the offence,
- (c) the date on which the fixed penalty notice is issued,
- (d) the amount of the fixed penalty,
- (e) the person to whom payment may be made and the person's address,
- (f) the payment period,
- 25 (g) the method by which payment may be made,
- (h) the effect of paying the fixed penalty within the payment period and the consequences of not paying the fixed penalty within that period,
- (i) details of any procedure for challenging or appealing the fixed penalty notice.
- 30 (5) Regulations under this section may, in particular, include provision—
- (a) specifying the form and content of a fixed penalty notice,
- (b) specifying how a person or category of persons may be authorised to issue fixed penalty notices,
- 35 (ba) conferring powers to enter land (other than dwelling-houses) for or in connection with the issuing of a fixed penalty notice,
- (c) about the circumstances in which fixed penalty notices may or may not be issued (including any test which must be satisfied before a person authorised to issue such notices may do so),
- 40 (d) about the withdrawal of fixed penalty notices including when it is permissible, the effects of such withdrawal and the procedure by which the withdrawal is effected,

- 5
- (e) specifying the amount of the fixed penalty which is to apply to an offence (including different amounts for different purposes), being not more than level 2 on the standard scale,
- (f) specifying the person to whom payment may be made (who need not be the person who issued the fixed penalty notice),
- (g) specifying the payment period,
- 10 (h) about the circumstances in which a person to whom a fixed penalty notice is issued may decline the notice or otherwise object to or challenge it (including the period within which the person may do so and the procedure for doing so),
- (i) about the effects of failing to decline or otherwise object to or challenge a fixed penalty notice before the end of the period specified for doing so (including that such failure is deemed to be acceptance of the notice),
- 15 (j) conferring on the person who issued the fixed penalty notice or the person to whom payment may be made the power to extend the payment period in any particular case if the person considers it appropriate to do so,
- (k) about the methods by which fixed penalties may be paid,
- 20 (l) for the amount of a fixed penalty to be discounted or increased by an amount or percentage in circumstances specified by the regulations (but not so as to make the amount payable more than level 2 on the standard scale),
- (m) specifying the effect of paying a fixed penalty within the payment period (for example, that no proceedings may be brought in respect of the offence to which the fixed penalty notice relates),
- 25 (n) about the consequences of not paying a fixed penalty within the payment period (including the ability to refer offences for prosecution and how liability to pay the penalty may be enforced),
- (o) for additional procedure relating to fixed penalty notices (for example to make provision for hearings or appeals),
- 30 (p) for the destination of funds, the keeping of accounts and the preparation and publication of statements of account relating to fixed penalties provided for under the regulations,
- (q) specifying persons who may prepare and publish guidance on issuing fixed penalty notices (including when prosecution is more appropriate),
- 35 (r) creating offences relating to—
- (i) the obstruction of a person who is exercising functions in relation to fixed penalty notices,
- (ii) a failure to provide information requested in connection with a fixed penalty notice.
- 40 (6) The maximum penalty that may be provided for in regulations under this section creating an offence is, on summary conviction, a fine not exceeding level 2 on the standard scale.

- (7) Before making regulations under this section, the Scottish Ministers must consult such persons as they consider to be interested in or affected by the issuing of fixed penalty notices for National Park byelaw offences.
- 5 (8) Subsection (9) applies where the Scottish Ministers are considering making regulations to specify byelaws in relation to which fixed penalty notices may be issued.
- (9) Where this subsection applies, the Scottish Ministers may—
- 10 (a) delegate their duty to consult under subsection (7) to the National Park authority which made (or proposes to make) the byelaw, but only insofar as it relates to which byelaws (or proposed byelaws) are to be specified, and
- (b) require the National Park authority to provide them with a report on the consultation in such terms as they may specify when making the delegation.
- 15 (10) Delegation of a function under subsection (9) does not affect the Scottish Ministers' ability to exercise that function.
- (11) Regulations under this section—
- (a) are subject to the negative procedure if the regulations are only—
- 20 (i) removing a reference to a byelaw which has been revoked, or
- (ii) specifying, for the purpose of subsection (2)(a), a byelaw which has been made to replace a byelaw (with or without modification) which was previously specified and which has substantially the same effect,
- (b) are otherwise subject to the affirmative procedure.
- 25 (12) Regulations under this section may also make—
- (i) incidental, supplemental, consequential, transitional, transitory or saving provision that the Scottish Ministers think necessary or expedient,
- (ii) different provision for different purposes.
- (13) In this section—
- 30 “fixed penalty notice” means a notice specifying a sum of money that may or must be paid as an alternative to prosecution for an offence,
- “payment period” means the period of time within which a fixed penalty may or must be paid.”.

## PART 4

### DEER MANAGEMENT

#### *Aims and purposes of deer management*

#### **10 Aims and purposes of deer management**

- (1) In the Deer (Scotland) Act 1996 (in this Part referred to as “the 1996 Act”), section 1 (the Deer Commission for Scotland) is modified as follows.
- 40 (2) In subsection (1), for paragraph (a), substitute—

“(a) in accordance with the provisions of this Act—

- (i) to further the conservation of deer native to Scotland,
- (ii) to promote the sustainable management of deer,
- (iii) to ensure the effective control of deer,
- 5 (iv) to safeguard the public interest in so far as it relates to the management and control of deer, and
- (v) to keep under review all matters relating to deer, including their welfare, and”.

(3) In subsection (1A), after “the” insert “aims, purposes and”,

10 (4) In subsection (2)—

- (a) in paragraph (a), after “heritage” insert “and environment”,
- (b) the “and” immediately following paragraph (d) is repealed,
- (c) after paragraph (e), insert “and

15 (f) to the extent not already covered, the public interest in the appropriate and sustainable management and effective control of deer.”.

(5) The section title becomes “**Aims and purposes of deer management**”.

#### *Membership of advisory panels*

### **11 Scottish Natural Heritage representation on advisory panels**

(1) Section 4 of the 1996 Act (appointment of panels) is modified as follows.

20 (2) For subsections (4) and (5) substitute—

“(4) SNH may appoint a member of SNH or a member of SNH’s staff as a member of a panel under subsection (1).”.

#### *Code of practice on deer management*

### **12 Code of practice on deer management**

25 (1) The 1996 Act is modified as follows.

(2) In section 5A (code of practice on deer management), in subsection (1), after “management” insert “and the circumstances in which it will intervene in the management or control of deer”.

(3) In section 5B (review of compliance with code of practice on deer management)—

30 (a) in subsection (1), for “must, before the expiry of the period mentioned in subsection (4),” substitute “may, at any time,”,

(b) after subsection (1), insert—

“(1A) SNH must carry out a review under subsection (1)—

(a) if required to do so by the Scottish Ministers,

35 (b) within such period as it considers appropriate following a replacement code or revision (other than a minor revision) of the code coming into effect, and

(c) otherwise, not less than once in each review period.”,

(c) for subsection (4), substitute—

“(4) For the purposes of subsection (1A), “review period” means each period of 10 years beginning with the date on which the Scottish Ministers most recently laid a report before the Scottish Parliament under subsection (3).”.

*Deer management plans, control agreements and control schemes*

**13 Grounds for intervention**

(1) After section 6 of the 1996 Act, insert—

**“6ZA Grounds for intervention: damage by deer**

(1) This section applies if SNH is satisfied that the grounds in both subsections (2) and (3) are met.

(2) This ground is met if, in relation to a particular area of land—

(a) deer or steps taken or not taken for the purposes of deer management have caused, are causing, or are likely to cause—

(i) damage to woodland, to agricultural production, including any crops or foodstuffs, to the welfare of deer or, whether directly or indirectly, to the natural heritage or environment generally,

(ii) damage to public interests of a social, economic or environmental nature, or

(iii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise, or

(b) deer have become a danger or a potential danger to public safety.

(3) This ground is met if measures require to be taken in relation to the management of deer—

(a) for the prevention of further such damage or injury,

(b) for the remedying of such damage, or

(c) for the prevention of such danger or potential danger.

**6ZB Grounds for intervention: nature restoration**

(1) This section applies if SNH is satisfied that the ground in subsection (2) is met.

(2) This ground is met if, in relation to a particular area of land, deer or steps taken or not taken for the purposes of deer management are, or are likely to, prevent or reduce the effectiveness of work, a project or natural process that—

(a) preserves, protects, restores, enhances or otherwise improves the natural heritage or environment, and

(b) is for, or contributes to, a relevant target, strategy or plan relating to the environment, climate change or biodiversity that applies in Scotland.

- (3) For the purpose of subsection (2)—
- (a) a target is relevant if it is set by, under, or in pursuance of an enactment,
  - (b) a strategy or plan is relevant if—
    - (i) it is required by an enactment, or
    - (ii) it is published by the Scottish Ministers or a public body with functions relating to natural heritage or the environment.”.

- (2) In section 45 (interpretation) of the 1996 Act, in subsection (1), after the definition of “deer proof barrier” insert—

““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.

## 14 Deer management plans

For section 6A of the 1996 Act substitute—

### “6A Deer management plans

- (1) If section 6ZA or 6ZB applies, SNH may give notice to the relevant owners and occupiers of a particular area of land requiring those owners or occupiers to prepare and submit a deer management plan to SNH.
- (2) A deer management plan is a plan relating to the management of deer on a particular area of land that sets out—
  - (a) the measures that the relevant owners and occupiers of the land consider should be taken in relation to the management of deer on the land,
  - (b) the time limit for taking those measures,
  - (c) who is to take those measures, and
  - (d) any other matter which appears to SNH to be necessary in the circumstances.
- (3) A notice under subsection (1) must set out—
  - (a) why SNH are satisfied that a deer management plan is required, and
  - (b) any aim or outcome that it believes it is necessary for the plan to achieve.
- (4) A deer management plan is to be submitted to SNH—
  - (a) by such date, which must not be earlier than 3 months after the date on which notice under subsection (1) was given, as SNH specifies in the notice, or
  - (b) by such later date as SNH may specify.
- (5) But a deer management plan may be amended until SNH decides to approve or reject it.
- (6) SNH may approve a deer management plan (with or without modifications) or reject it.
- (7) Before approving a deer management plan with modifications, SNH must consult the relevant owners and occupiers on the proposed modifications.

- (8) In this section and section 7, in relation to an area of land, a reference to the “relevant owners and occupiers” is a reference to any owner or occupier of land that SNH considers to have such sufficient interest in, or control over the use of, the land as to necessitate involvement in deer management measures.”.

## 5      **15      Control agreements**

- (1) Section 7 of the 1996 Act (control agreements) is modified as follows.

- (2) For subsections (1) and (2), substitute—

“(1) If section 6ZA or 6ZB applies, SNH may form a view, having regard to the nature and character of a particular area of land, as to what measures should be taken (which may include the taking and removal of deer).”.

- (3) In subsection (3), the words “, having had regard to the code of practice on deer management,” are repealed.

- (4) For subsection (4), substitute—

“(4) No later than 3 months after SNH has formed a view under subsection (1) or (3), it must—

- (a) give notice to the relevant owners and occupiers that it has formed that view,
- (b) prepare a draft control agreement that reflects its view as to the measures that should be taken, and
- (c) consult with the relevant owners and occupiers to secure their agreement to the draft control agreement (whether in the terms proposed or on such other terms as may be agreed).”.

- (5) In subsection (4B)—

- (a) in paragraph (a)(i), for “6A(5)” substitute “6A(4)”,
- (b) in paragraph (b), for “the conditions referred to in section 6A(1) continue to be met” substitute “section 6ZA or 6ZB still applies”.

- (6) In subsection (5)—

- (a) in the opening words, for the words from “Where” to “such” substitute “A”,
- (b) the closing words are repealed.

- (7) After subsection (5), insert—

“(5A) SNH must provide a copy of an agreed control agreement (and any subsequent variation) to each party to the agreement and any relevant owner and occupier consulted under subsection (4).”.

- (8) After subsection (7), insert—

“(8) If, following a review, SNH consider that the compliance with a control agreement is insufficient, it must—

- (a) proceed with making a control scheme under section 8, or
- (b) advise the Scottish Ministers why it does not consider it appropriate to do so at the present time.”.

**16 Control schemes**

- (1) The 1996 Act is modified as follows.
- (2) In section 8 (control schemes)—
- (a) in subsection (A1), in paragraph (b), for “required” substitute “enabled”,
  - (b) in subsection (1)—
    - (i) the words “, having had regard to the code of practice on deer management,” are repealed,
    - (ii) for “for the purposes mentioned in subsection (1) or, as the case may be,” substitute “in connection with the grounds listed in section 6ZA or 6ZB or, as the case may be, circumstances mentioned in”,
  - (c) subsection (2) is repealed,
  - (d) for subsection (4), substitute—
- “(4) A control scheme may—
- (a) specify different measures to be taken by different owners or occupiers for the time being of land in the control area,
  - (b) be made in respect of a particular area, owner or occupier of land within the control area of a control agreement, and
  - (c) provide for the extension of any time limit prescribed in the scheme.”,
- (3) For schedule 2 (provision as to control schemes), substitute—

“SCHEDULE 2  
(introduced by section 8(6))

PROVISIONS AS TO CONTROL SCHEMES

**PART 1**

APPLICATION AND INTERPRETATION

*Application and interpretation*

- 1 This schedule applies where SNH decides to make, vary or revoke a control scheme.
- 2 In this schedule—
- (a) a reference to “the proposal” is a reference to the proposal to make, vary or, as the case may be, revoke a control scheme,
  - (b) “register”, in relation to a control scheme or the variation or revocation of such a scheme, means register in the Land Register of Scotland or (as the case may be) record in the General Register of Sasines, and “registered” and “registration” are to be construed accordingly,
  - (c) a “relevant person” is—
    - (i) an owner or occupier for the time being of land upon whom a control scheme (or a variation of it) proposes to impose a requirement, and

- (ii) where a control scheme is in place, an owner or occupier for the time being of land upon whom the control scheme imposes a requirement.

## PART 2

### PROCEDURE FOR MAKING, VARYING AND REVOKING CONTROL SCHEMES

#### *Notice of the proposal*

3 (1) SNH must—

(a) give each relevant person a notice which—

(i) provides details of the proposal (including a copy of the draft control scheme or, as the case may be, the control scheme as it is proposed to be varied),

(ii) informs the person that objections to the proposal or any part of it may be made to the Scottish Ministers within the period of 28 days beginning with the date of service of the notice, and

(b) publish in such manner as SNH thinks fit a notice—

(i) providing details of the proposal, including in particular the control area,

(ia) stating the date of first publication of the notice,

(ii) specifying a place where a copy of the control scheme and the map referred to in it may be inspected at all reasonable hours (which may be a website),

(iii) stating that objections to the proposal or any part of it may be made by relevant persons to the Scottish Ministers within the period of 28 days beginning with the date of first publication of the notice.

(2) If the periods for objections under sub-paragraph (1)(a)(ii) and (b)(iii) are different, objections may be made until the expiry of the later period.

4 Notices under paragraph 3(1) must also provide details of the manner in which objections are to be made to the Scottish Ministers.

#### *Objections*

5 The Scottish Ministers must, in respect of each objection received (and not withdrawn), take the following steps—

##### *Step 1*

Determine whether the objection relates to—

(a) compliance with the process followed by SNH up to that point (“a procedural objection”), or

(b) the substantive content of the scheme (a “substantive objection”).

##### *Step 2*

In respect of any substantive objection in respect of which they would like advice, refer the objection to a person (or persons) appointed under paragraph 9.

*Step 3*

5 Consider each procedural objection and each substantive objection which they are not referring to a person (or persons) appointed under paragraph 9.

*Step 4*

Following the receipt of advice in respect of a substantive objection, consider the objection having regard to the advice.

10 6 The Scottish Ministers may (notwithstanding paragraph 5)—

(a) in a case where an objection relates to both the process followed by SNH and to the substantive content of a scheme, treat the procedural matters and substantive matters as if they were separate objections,

15 (b) require a person who has made an objection to state in writing the grounds for it before they consider the objection,

(c) disregard an objection if—

(i) it is made after the expiry of the period for objections,

(ii) does not comply with the manner in which objections are to be made (as set out in the notice under paragraph 3(1)), or

20 (iii) they are satisfied that it is frivolous or vexatious,

*Confirmation or refusal of proposal*

7 Once all objections (if any) have been considered, the Scottish Ministers may—

(a) confirm the proposal—

(i) as proposed, or

25 (ii) subject to paragraph 8, with such modifications as they consider appropriate, or

(b) reject the proposal.

30 7A The Scottish Ministers must confirm or reject the proposal under paragraph 7 no later than 6 months after the expiry of the period mentioned in paragraph 3(b)(iii).

7B The Scottish Ministers may give notice to SNH and any relevant person extending the period mentioned in paragraph 7A.

7C Any notice given under paragraph 7B must set out—

(a) the Scottish Ministers reasons for extending the period,

35 (b) an indicative date by which the Scottish Ministers will reach a decision under paragraph 7.

*Ministerial modifications to proposal*

- 8 The Scottish Ministers may not confirm a proposal with modifications unless—
- (a) each relevant person has been given a notice which—
    - (i) provides detail of the proposed modification, and
    - 5 (ii) informs the person that objections to it may be made to the Scottish Ministers within the period of 14 days beginning with the date of service of the notice, and
  - (b) either—
    - (i) each relevant person has consented to the modification, or
    - 10 (ii) the period for objections has elapsed and the Scottish Ministers have considered any objections (in accordance with paragraph 5).

*Appointment of experts to consider objections*

- 9 (1) The Scottish Ministers may, for the purpose of providing them with advice—
- (a) on a particular substantive objection or objections on a particular scheme,
    - 15 appoint one or more persons that they consider to have expertise relevant to the objection or scheme,
    - (b) on substantive objections for several schemes, appoint one or more persons that they consider to have relevant expertise.
  - (2) Before making an appointment under sub-paragraph (1), the Scottish Ministers
    - 20 must consult SNH and such other persons as they consider appropriate.
  - (3) The Scottish Ministers may by regulations make further provision about the terms and conditions of a person appointed to provide advice.

**PART 3**

## MAKING AND VALIDITY OF CONTROL SCHEMES ETC.

*Making and registration of control scheme, variation or revocation*

- 10 As soon as practicable after confirmation of a proposal, SNH are to—
- (a) give notice to all relevant persons—
    - (i) that the proposal has been confirmed, and
    - (ii) indicating the date by which a relevant person must appeal,
  - 30 (b) publish the control scheme, the scheme as varied or, as the case may be, a notice that the scheme has been revoked, in such manner as it thinks fit (which may be on its website),
  - (c) register the control scheme, the variation or, as the case may be, a notice
    - 35 of revocation in respect of the titles to the land comprising the control area.

*Validity and appeals*

- 11 (1) Subject to this paragraph, a control scheme or any variation or revocation of such a scheme is not to be questioned in any proceedings.
- (2) A relevant person who is aggrieved by—
- 5 (a) a decision of the Scottish Ministers to confirm the making, variation or revocation of a control scheme, or
- (b) the terms or conditions of such a scheme,
- may appeal to the Scottish Land Court.
- (3) An appeal under sub-paragraph (2) must be lodged no later than 28 days after
- 10 the date of service of the notice referred to in paragraph 10(a).
- (4) The Scottish Land Court must determine an appeal under sub-paragraph (2) on the merits rather than by way of review and may do so by—
- (a) affirming the control scheme,
- (b) directing SNH and the Scottish Ministers to revoke the scheme,
- 15 (c) making such other order as it thinks fit.”.

**17 Recovery of costs and expenses**

For section 9 of the 1996 Act (recovery of expenses incurred in fulfilment of control scheme), substitute—

**“9 Recovery of SNH costs and expenses**

- (1) SNH may recover any expenses incurred by it in connection with the registration of—
- 20 (a) a control scheme,
- (b) a variation of a control scheme,
- 25 (c) a revocation of a control scheme,
- from all or any of the owners and occupiers concerned.
- (2) Before taking steps to recover expenses from an owner or occupier under subsection (1), SNH must provide the owner or occupier with a statement detailing the registration fees and any other relevant expenses incurred in
- 30 connection with registration.
- (3) If expenses incurred by SNH in the performance of its duty under section 8(8) exceed the amount of the proceeds of the sale of any deer killed or taken in pursuance of that performance, it must recover the excess amount from the owner or occupier concerned.
- 35 (4) If expenses incurred by SNH in the performance of its duty under section 10(4) exceed the amount of the proceeds of the sale of any deer killed or taken in pursuance of that performance, it may recover the excess amount from the owner or occupier concerned.

- (5) Before taking steps to recover expenses from an owner or occupier under subsection (3) or (4), SNH must provide the owner or occupier concerned with a statement detailing—
- (a) the expenses incurred by it in the performance of its duty,
  - (b) the amount received in respect of the sale of deer, and
  - (c) the amount recoverable from the owner or occupier.
- (6) An owner or occupier who is aggrieved by a statement provided under subsection (2) or (5) may, within the period of 28 days beginning with the day on which the statement was provided, appeal to the Scottish Land Court.
- (7) The Scottish Land Court may, if it appears to it to be equitable to do so, vary the amount recoverable from the appellant.
- (8) SNH may, with the approval of the Scottish Ministers, waive its right to any expenses relating to the performance of its duty under section 8(8) which would otherwise be recoverable under subsection (3).
- (9) In this section, “registration” means, in relation to a control scheme or the variation or revocation of such a scheme, registration in the Land Register or, as the case may be, recording in the General Register of Sasines.”.

## 18 Limitation of criminal liability

- (1) Section 14 of the 1996 Act (limitation of criminal liability) is modified as follows.
- (2) In subsection (2), after “pursuance of” insert “a control agreement, a control scheme or”.
- (3) For subsection (3), substitute—
- “(3) Where the act is performed by a member of staff of SNH in pursuance of a control agreement or a control scheme the member of staff is liable to be proceeded against if the act constitutes an offence under section 18(1).
- (3A) Where the act is performed by a person other than a member of staff of SNH in pursuance of a control agreement, a control scheme or section 10, the person is liable to be proceeded against if the act constitutes an offence under section 5(5), 17(3), 17ZA(1), 18(1) or 19(1).”.
- (4) In subsection (4), for “and (3)(a)” substitute “to (3A)”.

### *Preventing or stopping damage by deer*

## 19 Measures to prevent damage by deer

- (1) The 1996 Act is amended as follows.
- (2) In section 10 (emergency measures to prevent damage by deer)—
- (a) in subsection (1)—
    - (i) in paragraph (a)(i), after “to” where it first occurs insert “the natural heritage, environment,”,
    - (ii) paragraph (b) is repealed,
  - (b) in subsection (4), after “opinion is” insert “fit and”.

- (3) Section 11 (application of section 10 in relation to the natural heritage) is repealed.

## 20 Action to prevent or stop harm to persons

- (1) The 1996 Act is modified as follows.

- (2) After section 25, insert—

### 5 “25A Action to prevent or stop danger to human safety

A person is not guilty of an offence under this Act (or any order made under it) in respect of an act done for the purpose of preventing or stopping a deer from causing harm to a person (including the person taking action) if—

- 10 (a) the harm is likely and imminent or is occurring,  
(b) the person reasonably believes that the action taken is necessary to prevent or stop the harm,  
(c) the action taken is appropriate in the circumstances, and  
15 (d) within the period of 5 working days beginning with the day on which the action was taken, the person reports the action taken and, if appropriate, the location of any deer carcass to the Police Service of Scotland.”.

- (3) In section 5(5) (close seasons), after “25”, insert “and 25A”.

- (4) In section 17 (unlawful killing, taking and injuring of deer)—

- 20 (a) in subsection (1), for “section 25” substitute “sections 25 and 25A”,  
(b) in subsection (2), for “section 25” substitute “sections 25 and 25A”,  
(c) in subsection (3), for “section 25” substitute “sections 25 and 25A”.

- (5) In section 17A(5) (register of persons competent to shoot deer), for “purpose mentioned in section 25” substitute “purposes mentioned in sections 25 and 25A”.

- (6) In section 18(1) (taking or killing at night), after “25” insert “and 25A”.

### 25 *SNH investigatory powers*

## 21 Power to enter on land

- (1) The 1996 Act is modified as follows.

- (2) In section 7 (control agreements), after subsection (4B) insert—

30 “(4C) A notice given under subsection (4)(a) may include notice for the purposes of section 15(2) (power of entry).”.

- (3) In section 15 (power to enter on land)—

- (a) in subsection (2), in paragraph (a), for “fourteen” substitute “5 working”,  
(b) after subsection (2), insert—

35 “(2ZA) A person authorised in writing by SNH for the purposes mentioned in subsection (3) may at all reasonable times enter upon any land where—

- (a) notice has been given under section 15A(1),

(b) the recipient of the notice has not provided the information or produced the document within the period of 10 working days beginning with the day on which the notice was given (or such later date agreed with SNH), and

(c) the period of 30 days beginning with the day after the day by which the information was to be provided or the document was to be produced has not elapsed.”.

(c) in subsection (2A), for “and (2)” substitute “, (2) and (2ZA)”;

(d) in subsection (3), for paragraph (a) substitute—

“(a) recording the number and characteristics (such as species, sex or estimated age) of deer in an area and assessing their impact on it,”.

(4) In section 45, (interpretation), in subsection (1)—

(a) the “and” immediately following the definition of “vehicle” is repealed,

(b) after the definition of “woodland”, insert—

““working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in Scotland.”.

## 22 Power to require information and documents

(1) The 1996 Act is modified as follows.

(2) After section 15, insert—

### “15A Power to require information and documents

(1) SNH may, for the purpose of the exercise of its functions under section 7 or 8 (including being satisfied as to any ground described in section 6ZA or 6ZB), by notice require a person to whom subsection (2) applies to—

(a) provide any information, or

(b) produce any document,

that SNH believes is or may be relevant to its exercise of those functions.

(2) This subsection applies to a person who is, or whom SNH reasonably believes to be, an owner or occupier of land within an area that is, or may become, a control area.

(3) A notice given under this section must—

(a) specify or describe the information or document to be provided or produced, and

(b) inform the person that failure to comply may lead to SNH exercising a power of entry under section 15.

(4) Unless otherwise specified in the notice, it is sufficient for a person to provide a copy of any information required to be provided or document required to be produced.

(5) Where—

- (a) information required to be provided under subsection (1) is recorded electronically, or
- (b) a document required to be produced under that subsection contains information recorded electronically,

the power under that subsection includes power to require the production of a copy of the information or document in a form in which it is visible and legible.

(6) The information or document must be provided or produced—

- (a) within the period of 10 working days beginning with the day on which the notice was given, or
- (b) by such later date as SNH may agree with the person.

(7) A person is not required, for the purposes of this section, to provide any document, record or other information which that person could not be compelled to give or to produce in civil proceedings before the Court of Session.

(8) A person who has been given notice under subsection (1) commits an offence if the person knowingly or recklessly provides information or produces a document which is false in a material particular.”.

(3) In schedule 3 (penalties), after the entry for section 13(2), insert—

“15A(8)	Providing false or misleading information.	a fine of level 3 on the standard scale.”.
---------	--	--

### **23 Giving notices electronically**

(1) Section 16 of the 1996 Act (service of notices) is modified as follows.

(2) In subsection (1A), the words “of sections 10(7) and (8), 15(2)(a), 40(1) and 40A(1)” are repealed.

#### *Authorisations for particular activities*

### **24 Authorisation for taking or killing deer during close seasons**

(1) Section 5 of the 1996 Act (close seasons) is modified as follows.

(2) In subsection (5)—

- (a) the words “14 and” are repealed,
- (b) for “(6) and (7)” substitute “(6) to (7)”.

(3) For subsection (6) substitute—

“(6) Subject to section 37 of this Act, SNH may authorise the owner or occupier of any land or any person nominated in writing by the owner or occupier to take or kill, and to sell or otherwise dispose of, any deer found on that land during the period specified in relation to that sex and species of deer in an order under subsection (1).

(6A) SNH may not grant an authorisation under subsection (6) unless it is satisfied that—

- (a) a ground set out in section 6ZA(2) (grounds for intervention: damage by deer) or 6ZB(2) (grounds for intervention: nature restoration) is met, and
- (b) there are no other adequate means of control which might reasonably be adopted in the circumstances.

(6B) Subsections (6) and (6A) apply notwithstanding anything contained in any agreement between an occupier of the land and the owner.”.

(4) Subsection (8) is repealed.

## 25 Authorisation for taking or killing deer at night

(1) The 1996 Act is modified as follows.

(2) In section 18 (taking or killing at night)—

- (a) in subsection (1), for “subsection (2)” substitute “subsections (2) to (5)”,
- (b) for subsection (2), substitute—

“(2) Subject to section 37 of this Act, SNH may authorise the owner or occupier of any land or any person nominated in writing by the owner or occupier to take or kill, and to sell or otherwise dispose of, any deer found on that land during the period specified in subsection (1).

(3) A person who is authorised under subsection (2) may only take or kill deer during the period specified in subsection (1) if the person is satisfied that a ground set out in section 6ZA(2) (grounds for intervention: damage by deer) or 6ZB(2) (grounds for intervention: nature restoration) is met.

(4) Subsections (2) and (3) apply notwithstanding anything contained in any agreement between an occupier of the land and the owner.

(5) Subject to section 37 of this Act, SNH may, for any scientific purpose, authorise any person to take or kill deer during the period specified in subsection (1).”.

(3) In section 45(1) (interpretation), in the definition of “animal foodstuffs” for “purposes of sections 18(2) and” substitute “purpose of section”.

## 26 Authorisation for use of vehicles to drive deer

(1) Section 19 of the 1996 Act (use of vehicles to drive deer) is modified as follows.

(2) In subsection (2)—

- (a) after “owner”, insert “or occupier”,
- (b) for “him”, substitute “the owner or occupier”.

## 27 Offence of shooting deer with a shotgun

(1) The 1996 Act is modified as follows.

(2) After section 17, insert—

**“17ZA Use of shotguns**

- (1) Subject to sections 25 and 25A of this Act and to subsections (2) and (3), a person who shoots a deer with a shotgun commits an offence.
- (2) Subject to section 37 of this Act, SNH may authorise an owner or occupier of any land or any person nominated in writing by the owner or occupier to shoot any deer found on that land with a shotgun.
- (3) SNH may not grant an authorisation under subsection (2) unless it is satisfied that—
- (a) a ground set out in section 6ZA(2) (grounds for intervention: damage by deer) or 6ZB(2) (grounds for intervention: nature restoration) is met, and
- (b) there are no other adequate means of control which might reasonably be adopted in the circumstances.
- (4) Subsections (2) and (3) apply notwithstanding anything contained in any agreement between an occupier of the land and the owner.
- (5) Except to the extent provided in this section, nothing in this section otherwise limits the power to make orders under section 21.”.
- (3) In section 31(4) (powers of court on conviction for offences), after “(3),” insert “17ZA(1),”.
- (4) In section 37(1) (restrictions on granting of certain authorisations), after “(7),” insert “17ZA(1),”.
- (5) In section 45 (interpretation)—
- (a) in subsection (1), after the definition of “shoot”, insert—
- ““shotgun” means a firearm of such description as may be specified as constituting a shotgun for the purposes of this Act in regulations made by the Scottish Ministers,”,
- (b) after subsection (2), insert—
- “(3) Before making regulations under subsection (1) in relation to the meaning of “shotgun”, the Scottish Ministers must consult such persons as they consider may have an interest in, or otherwise be affected by, the regulations.”.
- (6) In schedule 3 (penalties), after the entry relating to 17(3), insert—
- |          |                              |  |
|----------|------------------------------|--|
| “17ZA(1) | Shooting deer with a shotgun | a fine of level 4 on the standard scale for each deer in respect of which the offence is committed”. |
|----------|------------------------------|--|

**28 Register of authorised persons**

- (1) Section 17A of the 1996 Act (register of persons competent to shoot deer) is modified as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “competent to shoot deer in Scotland” substitute “who are (either or both)—

- “(i) fit and competent to shoot deer in Scotland, and  
(ii) authorised to carry out one or more specified activities,”,  
(b) in paragraph (c), for “sections 26(2)(d) and 37(1)” substitute “sections 26(4)(d) and 26ZA(3)”.
- 5 (3) In subsection (2)(a)—  
(a) in sub-paragraph (iii), after “is” insert “fit and”,  
(aa) in sub-paragraph (x), for “the” substitute “any additional”,  
(b) in sub-paragraph (xiv)—  
(i) after “16,” insert “17ZA,”,  
10 (ii) after “18,” insert “19,”  
(iii) after “26” insert “, 26ZA”.
- (3A) In subsection (7)—  
(a) in paragraph (a), after “been” insert “taken or”,  
(b) in paragraph (b)(ii)—  
15 (i) after “be” insert “taken or”,  
(ii) for “in the following year” substitute “for a period not exceeding five years”.
- (4) After subsection (7), insert—  
“(8) In this section, reference to a specified activity is a reference to an activity which requires authorisation under sections 5, 17ZA, 18 or 19.”.
- 20 (5) The cross heading becomes “*Register of authorised persons*”.
- (6) The heading of the section becomes “**Register of authorised persons**”.

## 29 Repeal of obligation to carry out competence review

Section 17B of the 1996 Act is repealed.

## 30 Requirement to be fit and competent for certain authorisations

- 25 (1) Section 37 of the 1996 Act (restrictions on granting of certain authorisations) is modified as follows.
- (2) In subsection (1)—  
(a) the words “Except as mentioned in subsection (1A) below,” are repealed,  
(b) after “18(2)” insert “or (5)”.
- 30 (3) For subsection (1A), substitute—  
“(1A) A person who is registered in a register established by regulations under section 17A may be considered a fit and competent person for the purposes of subsection (1).”.
- (4) In subsection (3), after “18(2)” insert “or (5)”.

**31 Repeal of saving of right to take deer on land**

- 5
- (1) The 1996 Act is modified as follows.
  - (2) In section 18(1) (taking or killing at night), the words “and 41(2)” are repealed.
  - (3) In section 19(1) (use of vehicles to drive deer), the words “section 41(2) of this Act and to” is repealed.
  - (4) In section 20(1) (other offences connected with moving vehicles), for “sections 25 and 41(2)” substitute “section 25”.
  - (5) In section 41 (savings for certain rights), subsection (2) is repealed.

**31A Right of occupier or grazings committee to prevent damage by deer**

- 10
- (1) The 1996 Act is modified as follows.
  - (2) For section 26 (right of occupier in respect of deer causing damage to crops etc. on certain ground), substitute—

**“26 Right of occupier to prevent damage by deer**

- 15
- (1) An occupier of any agricultural land or woodland, or a person mentioned in subsection (4) authorised in writing by the occupier, may take or kill, and sell or otherwise dispose of, any deer found on the land or woodland if the occupier has reasonable grounds to believe that the taking or killing of deer is necessary to prevent—

(a) damage—

- 20
- (i) to agricultural production (including any crops or human or animal foodstuffs) on the land,
  - (ii) to the woodland, or
  - (iii) whether directly or indirectly, to the natural heritage or environment generally, or

- 25
- (b) injury to livestock kept on the land, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise.

- (2) Subsection (1) applies notwithstanding anything contained in any agreement between an occupier of the land or woodland and the owner.

- 30
- (3) Subsection (1) does not apply during any period fixed by order under section 5(1) (taking, killing or injuring deer in close season) in relation to the sex and species of the deer concerned.

- (4) The persons referred to in subsection (1) are—

- 35
- (a) the owner of the land or woodland,
  - (b) the owner’s employees,
  - (c) the occupier’s employees, or any other person normally resident, on the land,
  - (d) any other person approved in writing by SNH as a fit and competent person to take or kill deer for the purpose referred to in subsection (1).

- (5) Any authorisation given by an occupier of land to take or kill deer expires—
- (a) at the end of such period as the occupier may specify in it,
  - (b) in relation to a person mentioned in paragraphs (b) or (c) of subsection (4), the person ceases to be in the employment of the owner or, as the case may be, the occupier, or ceases to be normally resident on the land,
  - (c) in relation to a person mentioned in paragraph (d) of that subsection, when the person ceases to be so approved, or
  - (d) if the occupier revokes it.

### 26ZA Right of grazings committee to prevent damage by deer

- (1) A person authorised in writing by a grazings committee of any particular common grazing, and who meets the condition mentioned in subsection (3), may take or kill, and sell or otherwise dispose of, any deer found on the common grazing if the committee has reasonable grounds to believe that the taking or killing of deer is necessary to prevent—

- (a) damage—
  - (i) to woodland forming part of the common grazing, or
  - (ii) whether directly or indirectly, to the natural heritage or environment generally, or
- (b) injury to livestock kept on the common grazing, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise.

- (2) Subsection (1) does not apply during any period fixed by order under section 5(1) (taking, killing or injuring deer in close season) in relation to the sex and species of the deer concerned.

- (3) The condition referred to in subsection (1) is that the person is approved in writing by SNH as a fit and competent person to take or kill deer for the purpose referred to in that subsection.

- (4) Any authorisation given by a grazings committee to a person to take or kill deer expires—

- (a) at the end of such period as the committee may specify in it, or
- (b) if the committee revokes it.”.

- (3) In section 42 (information to be supplied to owner of certain land), for “or 26(2)” substitute “, 26(4) or 26ZA(3)”.

### *Stray farmed deer*

## 32 Liability for taking or killing stray farmed deer

- (1) The 1996 Act is modified as follows.
- (2) After section 20, insert—

**“20A Offence of failing to report taking or killing of stray farmed deer**

- (1) This section applies where—
- (a) a person has taken or wilfully killed a deer,
  - (b) the deer is a stray farmed deer, and
  - (c) section 25A does not apply.
- (2) The person is guilty of an offence if the person fails to report the taking or killing of the deer and, if appropriate, the location of its carcass, to the Police Service of Scotland within the period of 5 working days beginning with the day on which the deer was taken or killed.
- (3) It is a defence for the person to show that the person did not know, and could not reasonably have known, that the deer was a stray farmed deer.”.

- (3) After section 26, insert—

**“26A Defence to civil proceedings for killing or injuring stray farmed deer**

In any civil proceedings against a person for killing or causing injury to a stray farmed deer, it is a defence for the person to prove that—

- (a) the person was exercising a legal right to take or kill deer, and
- (b) the person has complied with the person’s duty under section 20A or, as the case may be, section 25A.”.

- (4) In schedule 3 (penalties), after the entry relating to section 20(1), insert—

“20A(2)	Failing to report taking or killing of stray farmed deer	a fine of level 2 on the standard scale for each deer in respect of which the offence is committed”.
---------	--	--

- (5) In section 43 (application of Act to farmed deer)—

- (a) in subsection (1), for “(4)” substitute “(3A)”,
- (b) after subsection (3), insert—

“(3A) Except as provided in sections 20A and 26A, a stray farmed deer is to be treated as a deer for the purposes of this Act, unless or until it is caught and returns to being a farmed deer.”,

- (c) subsection (4) is repealed.

- (6) In section 45 (interpretation)—

- (a) for the definition of “farmed deer”, substitute—

““farmed deer” means deer of any species which are on agricultural land enclosed by a deer-proof barrier and are kept on that land by any person as livestock,”,

- (b) after the definition of “species”, insert—

““stray farmed deer” means a deer which was a farmed deer but which has escaped the agricultural land enclosed by a deer-proof barrier on which it was kept,”.

*Licensing of dealing in venison***33 Removal of requirements related to licensing to deal in venison**

- (1) The 1996 Act is modified as follows.
- (2) In section 27(5) (powers of search and seizure), the words “, or under section 36(1) or (4),” are repealed.
- (3) In section 31 (powers of court on conviction for offences), subsection (5) is repealed.
- (4) Section 33 (licences to deal in venison) is repealed.
- (5) Section 34 (records kept by venison dealers) is repealed.
- (6) Section 35 (reciprocal arrangements) is repealed.
- (7) Section 36 (offences in connection with venison dealing) is repealed.
- (8) In section 43(2) (application of Act to farmed deer), paragraph (c) is repealed.
- (9) In schedule 3 (penalties), the entries in the table relating to section 36 are repealed.
- (10) The title of Part IV becomes “**Enforcement and miscellaneous provisions**”.

**33A Review of modifications to the Deer (Scotland) Act 1996**

- (1) The Scottish Ministers must, within 10 years of the day on which this section comes into force, prepare and publish a report on the operation and effectiveness of the provisions of the 1996 Act which are modified by this Part.
- (2) The report prepared under subsection (1) must include an assessment of the operation and effectiveness of the provisions of the 1996 Act as modified by this Part against the following objectives—
  - (a) protecting and restoring the natural heritage and environment,
  - (b) achieving the aims and purposes of deer management set out by section 1 of the 1996 Act, and
  - (c) improving standards of welfare for deer.
- (3) When preparing the report, the Scottish Ministers must consult—
  - (a) Scottish Natural Heritage, and
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (4) The report prepared under subsection (1) must include—
  - (a) a statement of any action the Scottish Ministers intend to take, and
  - (b) where the Scottish Ministers do not intend to take any action, their reasons for not taking action.
- (5) The Scottish Ministers must lay the report before the Scottish Parliament.
- (6) In this section—
 

“deer” is to be construed in accordance with section 45 of the 1996 Act,

“natural heritage” is to be construed in accordance with section 45(1) of the 1996 Act.

**PART 4A**

BUILDING REGULATIONS: INTEGRAL SWIFT NEST BOX

**33B Building regulations: integral swift nest box**

5 (1) The Scottish Ministers must, before the expiry of the period of 12 months beginning with the day after Royal Assent, introduce regulations under section 1 of the Building (Scotland) Act 2003 to make provision for the installation of an average of one integral swift nest box per dwelling or unit greater than 5 metres in height.

(2) Regulations must require the installation of integral swift nest boxes in line with best practice guidance, except where such installation is not practicable or appropriate.

10 (3) For the purposes of this section—

“integral swift nest box” means a nest box integrated into the wall of a building suitable for the nesting of the common swift (*apus apus*) and other cavity nesting species,

“best practice guidance” means the British Standards BS42021:2022.

15 **PART 4B**

MARINE PLANNING

**33C Nature conservation marine protected areas: climate adaptation**

(1) The Marine (Scotland) Act 2010 is modified as follows.

20 (2) In section 68 (Nature Conservation MPAs: additional requirements relating to designation), in subsection (7)—

(a) for “may” substitute “must”,

(b) after fourth “to” insert “climate adaptation and”.

**PART 4C**

GULLS

25 **33D Gull numbers**

(1) Scottish Natural Heritage (in this Part referred to as “SNH”) must, in respect of each reporting period, conduct a survey on the number of gulls in Scotland.

(2) A survey under subsection (1) must count the number of gulls in—

(a) urban areas,

30 (b) coastal areas.

(3) As soon as reasonably practicable after completing a survey under subsection (1), SNH must prepare and publish a report on the results of the survey.

(4) In subsection (1), “reporting period” means—

(a) in the case of the first survey, the period of 12 months beginning with the day after Royal Assent,

35 (b) each subsequent period of 12 months.

## PART 4D

## SCALLOP SHELLS

**33E Clean scallop shells: exclusion from waste and animal by-product controls**

5 (1) The Scottish Ministers must, by regulations, provide that clean, tissue-free shells of King scallops (*Pecten maximus*) and Queen scallops (*Aequipecten opercularis*) are not treated as—

(a) waste for the purposes of—

(i) the Environmental Protection Act 1990 (or any subordinate legislation made under that Act),

10 (ii) the Waste (Scotland) Regulations 2011 (S.S.I. 2011/226),

(iii) the Waste (Scotland) Regulations 2012 (S.S.I. 2012/148),

(b) animal by-products for the purposes of the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (S.S.I. 2013/307),

when used for any of the purposes listed in subsection (2).

15 (2) The purposes are—

(a) soil improvement or conditioning,

(b) habitat restoration or enhancement, including marine and coastal projects,

(c) erosion control or shoreline protection,

(d) construction or landscaping applications,

20 (e) aquaculture or shellfish bed regeneration,

(f) any other purpose specified by the Scottish Ministers in regulations under subsection (1) as contributing to biodiversity, climate mitigation or circular economy objectives.

(3) For the purposes of subsection (1), “clean, tissue-free shells” means shells—

25 (a) from which all animal tissue and organic matter have been completely removed, and

(b) that have been processed and handled in a manner that prevents risk to animal or public health, having regard to—

30 (i) Regulation (EC) No 1069/2009 of the European Parliament and of the Council, and

(ii) Commission Regulation (EU) No 142/2011.

(4) Nothing in this section affects the status of shellfish shells with residual soft tissue or flesh attached, which continue to be Category 3 animal by-products and remain subject to existing controls.

35 (5) Regulations under subsection (1) may, in particular, make provision relating to—

(a) standards and certification for shell cleaning and processing,

(b) record-keeping and traceability requirements,

(c) conditions or limitations on the use of shells to protect the environment and public health,

- (d) labelling and information requirements for consignments placed on the Scottish market for the purposes listed in subsection (2).
- (6) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) the Scottish Environment Protection Agency,
  - (b) the Animal and Plant Health Agency,
  - (c) Food Standards Scotland,
  - (d) local authorities,
  - (e) such persons as they consider are representative of those with an interest in matters relating to fisheries,
  - (f) such other persons as they consider appropriate.
- (7) Regulations under subsection (1) are subject to the affirmative procedure.

## PART 5

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **33F Licensing: land on which certain birds may be killed or taken**

- (1) Section 16AA of the Wildlife and Countryside Act 1981 (“the 1981 Act”) (licensing: land on which certain birds may be killed or taken) is modified in accordance with subsections (2) to (5).
- (2) In subsection (4), for paragraph (c), substitute—
- “(c) describe the area of land to which the applicant proposes the licence should relate.”.
- (3) After subsection (5) insert—
- “(5A) The relevant authority may—
- (a) propose a different area to which the licence is to relate from that described in the application, and
  - (b) if unable to reach agreement with the applicant as to what is an appropriate area of land to which the licence is to relate, refuse the application.”.
- (4) In subsection (9)(b)(ii)(A), for the words “on the land” substitute “that supports or benefits the activities permitted by the licence.”.
- (5) After subsection (9) insert—
- “(9A) The relevant authority may not modify a licence under subsection (9)(a) to identify a different area of land to which the licence relates from that which was identified when the licence was granted without the prior agreement of the licence holder.”.
- (6) The relevant authority may not suspend or revoke a relevant section 16AA licence under section 16AA(9)(b)(ii)(A) of the 1981 Act, as amended by subsection (4) of this section, in relation to a relevant offence (or conduct which the relevant authority is satisfied constitutes such an offence) committed prior to the coming into force of subsection (4),

unless the relevant offence (or conduct) was committed on the land to which the licence relates.

(7) For the purpose of subsection (6)—

(a) “relevant authority” and “relevant offence” are to be construed in accordance with section 16AA(13) of the 1981 Act,

(b) “section 16AA licence” is to be construed in accordance with section 16AA(1) of the 1981 Act and a “relevant section 16AA licence” means a section 16AA licence which was granted prior to the coming into force of this section.

### 34 Meaning of public authority etc. in the Nature Conservation (Scotland) Act 2004

(1) The Nature Conservation (Scotland) Act 2004 is modified as follows.

(2) In section 58 (interpretation)—

(a) in subsection (1), the definition of “public body or office holder” is repealed,

(b) after subsection (3), insert—

“(4) For the purposes this Act (unless the context otherwise requires), a reference to a “public body or office holder”—

(a) includes a reference to—

(i) a Scottish public authority,

(ii) so far as not falling within sub-paragraph (i), a cross-border public authority, (but only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters), and

(iii) a statutory undertaker and any person exercising functions of a public nature, but

(b) does not include any court or tribunal or body exercising the judicial power of the state.

(5) This Act applies only in relation to the exercise of functions by public bodies or office holders in or as regards Scotland which do not relate to reserved matters.”.

(3) The title to section 58 becomes “**Interpretation and application**”.

### 34A Procedure to approve improvement plans

(1) Section 30 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (improvement plan) is modified as follows.

(2) In subsection (3), in the opening words after “Parliament” insert “for approval”.

(3) In subsection (5)—

(a) in the opening words, for the words from “, within” to “approved” substitute “the Parliament does not resolve to approve the plan”,

(b) in paragraph (b), for “resolved not to approve the plan” substitute “did not resolve to approve the plan”.

(4) Subsection (8) is repealed.

*General*

**35 Regulations**

- (1) A power to make regulations conferred by this Act includes the power to make—
- (a) different provision for different purposes or areas, and
  - (b) incidental, supplemental, consequential, transitional, transitory or saving provision.
- (2) This section does not apply to section 37.

**36 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may—
- (a) modify any enactment (including this Act), and
  - (b) make different provision for different purposes.
- (3) Regulations under this section—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
  - (b) otherwise, are subject to the negative procedure.

**37 Commencement**

- (1) This section and sections 35, 36 and 38 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) make different provision for different purposes or areas,
  - (b) include transitional, transitory or saving provision.

**38 Short title**

The short title of this Act is the Natural Environment (Scotland) Act 2026.

# Natural Environment (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision about setting targets relating to biodiversity; to confer on the Scottish Ministers a power to modify certain legislation in relation to environmental impact assessments and habitats; to make provision in relation to national parks; to make provision in connection with the management of deer; and for connected purposes.

Introduced by: Mairi Gougeon  
On: 19 February 2025  
Bill type: Government Bill

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -

[www.parliament.scot](http://www.parliament.scot)

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:

[www.parliament.scot/documents](http://www.parliament.scot/documents)