

Natural Environment (Scotland) Bill

[AS PASSED]

CONTENTS

Section

PART 1

TARGETS FOR IMPROVING BIODIVERSITY

- 1 Targets for improving biodiversity
- 1A Reports on compliance with biodiversity duty

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

National Park Proposals

- 5B Advice before making National Park proposals

Reports on National Park proposals

- 5C Choice of reporter for National Park proposals

- 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

15A Right to request action where deer are not being managed

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

National deer management and venison plan

20A National deer management and venison plan

20B National deer management and venison plan: matters which may be considered

20C National deer management and venison plan: initial consideration of matters relating to venison

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 Swift nest boxes

PART 4B

MARINE PLANNING

- 33C Nature conservation marine protected areas: climate adaptation

Salmon and freshwater fishing

- 33CA Modification of offences and penalties related to fishing

Report on penalties in sea fisheries legislation

- 33CB Report on penalties in sea fisheries legislation

PART 4C

GULLS

- 33D Report on gull population

PART 4D

SCALLOP SHELLS

- 33E Guidance about scallops

PART 5

MISCELLANEOUS AND GENERAL

Miscellaneous

- 33EA Licensing: protection of mountain hares
33F Licensing: land on which certain birds may be killed or taken
33G Wildfires: enabling local authorities to issue fixed penalty notices
34 Meaning of public authority etc. in the Nature Conservation (Scotland) Act 2004
34ZA Further provision about Ramsar sites
34ZB Sustainable forest management
34ZC Forestry: offence of unauthorised felling
34A Procedure to approve improvement plans
34B Muirburn licensing: making muirburn for purpose of approved training course
34C Muirburn licensing: grounds for grant of licence

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 PASSED]

An Act of the Scottish Parliament to make provision about setting targets relating to biodiversity; to make provision in relation to national parks; to make provision in connection with the management of deer; to make certain other miscellaneous provisions relating to environmental matters; and for connected purposes.

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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—

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“General duty to further conservation of biodiversity”.

- (2A) In section 1 (duty to further the conservation of biodiversity), in subsection (2)—

- (a) the “and” immediately following paragraph (a) is repealed,
- (b) after paragraph (b) insert “, and

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- (c) the need to act in the way best calculated to contribute to targets set in regulations made under section 2C.”.

- (3) After section 2A, insert—

“Duties in respect of biodiversity targets

2B Purpose of setting targets

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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),
- (aa) the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or any United Nations Convention replacing that Convention),
- (b) generally, the duty under section 1.

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2C Duty to set targets

- (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—
 - (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—
- (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.
- (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.
- (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—
- (a) the approach the Scottish Ministers intend to take to ensure that the targets are met,
 - (b) how it is intended that the approach set out under paragraph (a) be funded,
 - (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,
 - (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),
 - (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

- (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.
- (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.

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 (4A) Regulations under this section must specify a public body or office-holder who is independent of the Scottish Ministers.
- (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 **2H Application of this Part**

This Part 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.”.

- 15 (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—

“2A Reports on compliance with biodiversity duty

- 20 (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.
- 25 (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.
- 30 (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,
- 35 (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).”.

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PART 3

NATIONAL PARKS

Modification of aims and purposes of National Parks

5 Aims of National Parks

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

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(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—

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- (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
- (d) to promote sustainable economic, social and cultural development of the area’s communities.

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

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- (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,
- (da) encouraging sustainable and regenerative agriculture,
- (e) promoting sustainable tourism and visitor management, and
- (f) promoting sustainable economic growth and development activity which—

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- (i) improves the health and wellbeing of individuals who visit, live and work in the area, and
- (ii) supports the prosperity of communities in the area, including in relation to the provision of housing for people to live and work in the area.

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(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—

- (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)."

(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."

National Park Proposals

5B Advice before making National Park proposals

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

(2) In section 2, after subsection (2) insert—

“(2A) Before making a proposal under subsection (1) the Scottish Ministers must have regard to advice provided under section 2A.”.

(3) After section 2, insert—

“2A Advice before making a National Park proposal

- 5 (1) Before making a National Park proposal, the Scottish Ministers must seek expert advice on the matters set out in subsection (2) from such persons as the Scottish Ministers consider to have expertise relevant to the National Park aims and the conditions for designation set out in section 2(2).
- (2) The matters are, in relation to the National Park aims and conditions for designation—
- 10 (a) the management needs of the area,
- (b) whether designation as a National Park could—
- (i) improve the management of the area, and
- (ii) help to meet the special needs of the area, and
- (c) such other matters relating to the designation of a National Park as the Scottish Ministers consider appropriate.
- 15 (3) The Scottish Ministers must, as soon as reasonably practicable after the expert advice has been provided, lay a copy of the advice before the Scottish Parliament.”.

Reports on National Park proposals

5C Choice of reporter for National Park proposals

- 20 (1) Section 3 of the National Parks (Scotland) Act 2000 (reports on National Park proposals) is modified as follows.
- (2) For subsection (1), substitute—
- “ (1) The Scottish Ministers may appoint a person or body appearing to them to have expertise relevant to the National Park aims (the “reporter”) to consider and report on a National Park proposal.
- 25 (1A) In an appointment under subsection (1), the Scottish Ministers may require the reporter to report to them—
- (a) by such date as may be specified in the appointment, and
- (b) on such matters set out in subsection (2) as may be specified in the appointment.”.
- 30 (3) In subsection (2)(e), for “the requirement may specify” substitute “may be specified in the appointment”.
- (4) In subsection (3)—
- (a) for “impose a requirement” substitute “make an appointment”,
- (b) for “person who is to provide the report (the “reporter”)” substitute “reporter”.
- 35 (5) For subsection (4), substitute—
- “ (4) The Scottish Ministers may appoint more than one reporter under subsection (1), and if so—
- (a) may impose different requirements on different reporters,
- (b) may modify the application of subsection (5) in relation to any reporter,
- 40 but

(c) must require the reporters to provide their reports in a single document.”.

- (6) In subsection (5)—
- (a) in paragraph (a), for “requirement” substitute “appointment”,
 - (b) in paragraph (b), for “requirement” substitute “appointment”.
- 5 (7) In subsection (7), for “requirement” substitute “appointment”.
- (8) In subsection (9)(a), for “requirement” substitute “appointment”.

6 Definition of biodiversity

- (1) Section 35 of the National Parks (Scotland) Act 2000 (interpretation) is modified as follows.
- 10 (2) In subsection (1)—
- (a) 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),”
 - (b) after the definition of “community council”, insert—
 - ““cultural development” includes the development of arts, tangible and intangible cultural heritage, creative industries, and activities which reflect the diversity and distinctiveness of the area and its communities,”.

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).
- 25 (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).”.
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- 35 (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

(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—

(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—

(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—

5 (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,

10 (f) the payment period,

(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,

15 (i) details of any procedure for challenging or appealing the fixed penalty notice.

(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,

20 (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),

25 (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,

(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,

30 (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,

35 (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),

40 (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,
- (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),
- (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),
- (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),
- (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.

(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.

(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—

- (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.

(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—
 - (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.

(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—

“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.

(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 and humane control of deer,
- (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”,

(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

(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

5 **11 Scottish Natural Heritage representation on advisory panels**

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

10 *Code of practice on deer management*

12 Code of practice on deer management

- (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 may intervene in the management or control of deer”.
(3) In section 5B (review of compliance with code of practice on deer management)—
(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,
(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.”,
(ba) after subsection (1A) insert—
“(1B) When carrying out a review under subsection (1), SNH must consult—
(a) persons who have an interest in deer management,
(b) persons with practical experience of deer management.”,
(bb) after subsection (1B) insert—
“(1C) SNH must publish—
(a) details of the consultation undertaken under subsection (1B), including any consultation documents or materials,
(b) the results of that consultation, including any views expressed by the persons mentioned in paragraphs (a) and (b) of subsection (1B).”,
(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

5 **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.

- 10 (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—

- 15 (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

- 20 (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—

- 25 (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.

- 30 (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

- 35 (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.”.

5 (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

10 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.
- 15 (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,
 - 20 (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
 - 25 (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
 - 30 (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.
- 35 (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.”.

40

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—

“(7A) As soon as reasonably practicable after completing a review under subsection (7), SNH must publish the outcome of the review.

(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.”.

15A Right to request action where deer are not being managed

(1) The 1996 Act is modified as follows.

(2) After section 7 (control agreements) insert—

“7A Right to request action where deer are not being managed

(1) A person may request SNH to exercise its functions under section 6A or 7 if the person—

- (a) believes that the grounds in section 6ZA(2) and (3) are met, and
- (b) is, or is likely to be, directly affected by damage, injury, or danger of the type described in section 6ZA(2).

(2) A request under subsection (1) must include reasons for the belief that the grounds in section 6ZA(2) and (3) are met.

(3) The Scottish Ministers may, by regulations, modify subsection (2) to add, remove or adjust the information which is to be included in a request under subsection (1).

(4) SNH must, following a request under subsection (1)—

- (a) decide whether it is satisfied that the grounds in section 6ZA(2) and (3) are met,
- (b) if it decides that the grounds are met, decide whether to exercise its functions under section 6A or 7, and
- (c) inform the person who made the request of its decisions and the action, if any, SNH proposes to take.

(5) Regulations under subsection (3) are subject to the affirmative procedure”.

(3) In section 47 (order, regulations etc.), in subsection (1), for “section” substitute “sections 7A(3) and”.

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
10 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
15 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
20 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, and
- (iii) an owner or occupier for the time being of land upon whom no
25 requirement is (or is proposed to be) imposed under a control
scheme but who, in the opinion of SNH, is (or is likely to be)
significantly affected by the proposal.

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
35 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

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.

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,
- (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
 - (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
 - (ii) subject to paragraph 8, with such modifications as they consider appropriate, or
- (b) reject the proposal.

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,
- (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
 - (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
 - (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, 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 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 falling within paragraph 2(c)(i) or (ii) must appeal,
 - (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 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 falling within paragraph 2(c)(i) or (ii) who is aggrieved by—
 - (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 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,
 - (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—

- (a) a control scheme,
- (b) a variation of a control scheme,
- (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 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.

(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—
- 5 “(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
- 10 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.
- 15 (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,
- 20 (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—

25 **“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—

- (a) the harm is likely and imminent or is occurring,
- 30 (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
- (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
- 35 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)—
- (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 (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”.

National deer management and venison plan

20A National deer management and venison plan

10 After section 40A of the 1996 Act, insert—

“National deer management and venison plan

40B National deer management and venison plan

- 15 (1) The Scottish Ministers must, within the period of 5 years beginning with the day on which this section comes into force, prepare a plan about the management of deer and the promotion of venison in Scotland.
- (2) The plan prepared under subsection (1) must include—
- (a) a statement of priorities in relation to deer management in Scotland,
 - (b) the measures and actions that the Scottish Ministers intend to take in relation to—
 - 20 (i) the management of deer found in Scotland’s lowland areas (as defined in the plan),
 - (ii) current and emerging deer management concerns, including any species specific concerns,
 - (iii) the venison industry, key venison facilities and venison supply chains,
 - 25 (iv) identifying financial support for deer management, including how it can be most efficiently used,
 - (c) data which the Scottish Ministers consider relevant to the management of deer, including deer and urban deer population information, and national spread information,
 - 30 (d) any other matter relating to deer management or promotion of venison that the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must review and update the plan—
- (a) before the end of the period of 10 years beginning with the date on which the first plan was published under subsection (5), and
 - 35 (b) before the end of each subsequent period of 10 years.
- (4) When preparing a plan under subsection (1), or reviewing and updating a plan under subsection (3), the Scottish Ministers must consult—
- (a) SNH,

(b) such persons as they consider represent the interests of—

(i) persons undertaking deer management, and

(ii) the venison industry, and

(iii) the environmental and nature restoration sector,

(c) such other persons as they consider appropriate.

(5) The Scottish Ministers must, as soon as reasonably practicable after preparing a plan under subsection (1), or reviewing and updating a plan under subsection (3)—

(a) lay the plan before the Scottish Parliament, and

(b) publish the plan.

(6) In this section, “venison” means any part of the carcase of a deer which is edible by humans.

(7) The Scottish Ministers may by regulations modify subsection (2) to add, adjust or remove information that must be included in a plan.

(8) Regulations under subsection (7) are subject to the affirmative procedure.”.

20B National deer management and venison plan: matters which may be considered

After section 40B of the 1996 Act, insert—

“40C National deer management and venison plan: matters which may be considered

The Scottish Ministers, when preparing a plan or reviewing and updating a plan under section 40B, may in particular have regard to—

(a) the different circumstances in which deer are managed,

(b) the challenges of managing deer in different circumstances including the terrain, species of deer present, and cost,

(c) the characteristics and numbers of deer present, including differences in behaviour between species,

(d) in relation to the priorities identified in the plan, the importance of balancing social, economic, environmental and deer welfare considerations.”.

20C National deer management and venison plan: initial consideration of matters relating to venison

After section 40C of the 1996 Act, insert—

“40D National deer management and venison plan: initial consideration of matters relating to venison

(1) Before preparing a plan or reviewing and updating a plan under section 40B, the Scottish Ministers must consider what barriers (if any) exist in relation to the effective operation of venison processing facilities.

- (2) When considering the matter in subsection (1), the Scottish Ministers must consult—
- (a) such persons as they consider represent the interests of the venison industry, and
 - (b) such other persons as they consider appropriate.
- (3) Any consultation under subsection (2) which would to any extent have satisfied sub-paragraph (ii) of section 40B(4)(b), that sub-paragraph may to that extent be taken to have been satisfied.”.

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—
- “(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—
- “(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.”.
- (e) after subsection (3) insert—
- “(3A) Where a person is authorised by SNH for the purpose described in subsection (3)(a), SNH must, within the period of 3 months beginning with the day on which the information was recorded share with the owner—
- (a) the recorded information on the number and characteristics of deer in the area, and
 - (b) the assessment of the impact those deer have on the area.
- (3B) Information shared under subsection (3A) must be shared in an accessible format.”.

- (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.”.
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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—
- 5 “(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).
- 10 (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.
- 15 (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.
- 20 (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.
- 25 (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.
- 30 (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—
- 35 (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.”.

5 (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)—

10 (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—

15 “(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—

20 “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.

25 (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,”,

30 (b) in paragraph (c), for “sections 26(2)(d) and 37(1)” substitute “sections 26(4)(d) and 26ZA(3)”.

(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”,

35 (b) in sub-paragraph (xiv)—

(i) after “16,” insert “17ZA,”,

(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)—

(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.”.

(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

(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)”.

(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

(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

(1) The 1996 Act is modified as follows.

(1A) In section 5A (code of practice on deer management), in subsection (2), after paragraph (c) insert—

“(ca) make provision about the exercise of rights under sections 26 and 26ZA (and any regulations made under section 26ZB).”.

(1B) In section 17 (unlawful killing, taking and injuring of deer), after subsection (3) insert—

“(4) Subject to sections 25 and 25A, any person who knowingly causes or permits another person to take or kill a deer on any land—

(a) without permission from a person having the right to take or kill the deer, or

(b) in circumstances to which section 26(1) or section 26ZA(1) do not apply, is guilty of an offence.

(5) It is a defence for a person charged with an offence under subsection (1) to show that the person reasonably believed that—

(a) the taking or killing was permitted by a person having the right to take or kill deer on the land, or

(b) section 26(1) or, as the case may be, section 26ZA(1) applied to the taking or killing of the deer on the land.”.

(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

(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—

(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

(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.

(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—

(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.

26ZB Further provision about exercise of rights to prevent damage by deer

- (1) The Scottish Ministers may by regulations make further provision in connection with the exercise of rights under section 26 and 26ZA.
- (2) Regulations under this section may, in particular—
- (a) require a person to take specific action (such as to give notice) before the rights may be exercised,

(b) set out the consequences for failing to comply with any requirements set out in the regulations, which may include—

- (i) disapplying section 26(1) or 26ZA(1),
- (ii) creating offences and penalties in connection with such a failure.

5 (3) Before making regulations under this section, the Scottish Ministers must consult such persons as they consider represent persons likely to be interested in or affected by the regulations.

10 (4) The maximum penalties which may be imposed in respect of an offence created under the regulations are, on summary conviction, a fine of level 4 on the standard scale for each deer in respect of which the offence is committed or 3 months imprisonment or both.

(5) Regulations under this section are subject to the affirmative procedure.”.

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

15 (4) In section 47 (orders, regulations etc.), in subsection (1), for “section 21(4)” substitute “sections 21(4) and 26ZB(1)”.

(5) In schedule 3 (penalties), after the entry relating to section 17(3), insert—

20 “17(4) Knowingly causing or permitting a person to kill or take a deer without permission or in circumstances where it is not necessary to prevent damage a fine of level 4 on the standard scale for each deer in respect of which the offence is committed or 3 months imprisonment or both”.

Stray farmed deer

32 Liability for taking or killing stray farmed deer

(1) The 1996 Act is modified as follows.

25 (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
- 30 (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.

35 (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”.
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(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 and, at the same time, send a copy of the report to a committee of the Parliament whose remit includes matters relating to deer management for the time being appointed by virtue of the standing orders of the 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 Swift nest boxes

The Scottish Ministers must, before the expiry of the period of 12 months beginning with the day on which this section comes into force, make regulations under section 1 of the Building (Scotland) Act 2003 to make provision for the installation of swift nest boxes in such buildings as described in the regulations where reasonably practicable and appropriate.

PART 4B

MARINE PLANNING

33C Nature conservation marine protected areas: climate adaptation

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

Salmon and freshwater fishing

33CA Modification of offences and penalties related to fishing

- (1) The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 is modified as follows.
- (2) In section 1 (methods of fishing: salmon)—
- (a) in subsection (6)—
 - (i) at the beginning, insert “Subject to subsection (7),”,
 - (ii) for “level 4 on the standard scale” substitute “the statutory maximum”,
 - (b) after subsection (6), insert—

“(7) Where the commission of an offence under this section results in the taking of more than one salmon, the person who committed the offence is liable on summary conviction to a fine not exceeding the statutory maximum in respect of each salmon taken.”.
- (3) In section 2 (methods of fishing: freshwater fish)—
- (a) in subsection (1)—
 - (i) after “subsections” insert “(1A),”,
 - (ii) for “level 4 on the standard scale” substitute “the statutory maximum”,
 - (b) after subsection (1), insert—

“(1A) Where the commission of an offence under this section results in the taking of more than one freshwater fish, the person who committed the offence is liable on summary conviction to a fine not exceeding the statutory maximum in respect of each freshwater fish taken.”.
- (4) In section 5 (prohibition against using explosive and other noxious substances for the destruction or taking of fish)—
- (a) in subsection (3)(a)—
 - (i) at the beginning, insert “Subject to subsection (4),”,
 - (ii) for “the statutory maximum” substitute “£40,000”,
 - (b) after subsection (3), insert—

“(4) Where the commission of an offence under this section results in the taking, destruction or stunning of more than one fish, the person who committed the

offence is liable on summary conviction to a fine not exceeding the maximum fine in respect of each fish taken, destroyed or stunned.”.

(5) In section 6 (fishing for salmon without right or permission)—

(a) in subsection (1), the words “and liable on summary conviction to a fine not exceeding level 3 on the standard scale” are repealed,

(b) after subsection (1), insert—

“(1A) A person found guilty of an offence under subsection (1) is, on summary conviction, liable—

(a) where the offence results in the taking of a salmon, subject to subsection (1B), to a fine not exceeding the statutory maximum,

(b) otherwise, to a fine not exceeding level 3 on the standard scale.

(1B) Where the commission of an offence under this section results in the taking of more than one salmon, the person who committed the offence is liable on summary conviction to a fine not exceeding the statutory maximum in respect of each salmon taken.”.

(6) In section 7 (illegal fishing by two or more persons acting together)—

(a) the existing text becomes subsection (1),

(b) in that subsection, in paragraph (a)—

(i) at the beginning, insert “subject to subsection (2)”,

(ii) for “the statutory maximum” substitute “£40,000”,

(c) after that subsection, insert—

“(2) Where the commission of an offence under this section results in the taking of more than one salmon or freshwater fish, the person who committed the offence is liable on summary conviction to a fine not exceeding the maximum fine in respect of each fish taken.”.

(7) In section 10 (offences in relation to passage of salmon)—

(a) in subsection (1)—

(i) at the beginning, insert “Subject to subsection (1A),”,

(ii) for “level 4 on the standard scale” substitute “the statutory maximum”,

(b) after subsection (1), insert—

“(1A) Where the commission of an offence under this section results in the taking of more than one salmon, the person who committed the offence is liable on summary conviction to a fine not exceeding the statutory maximum in respect of each salmon taken.”.

(8) In section 19 (salmon roe), in subsection (1), for “level 3 on the standard scale” substitute “£40,000”.

(9) In section 20 (possessing salmon which have been illegally taken, killed or landed), in subsection (2)(a), for “level 3 on the standard scale” substitute “£40,000”.

(10) In section 23 (young salmon and spawning beds), in subsection (7), for “level 3 on the standard scale” substitute “£40,000”.

- (11) In section 33A (unauthorised introduction of fish into inland waters), in subsection (5), for “level 3 on the standard scale” substitute “£40,000”.
- (12) In section 38 (salmon conservation regulations)—
- (a) in subsection (7), the words “and liable on summary conviction to a fine not exceeding level 4 on the standard scale” are repealed,
- (b) after subsection (7), insert—
- “(7A) A person found guilty of an offence under subsection (7) is, on summary conviction, liable—
- (a) where the offence results in the taking, killing or otherwise harming of a salmon, subject to subsection (7B), to a fine not exceeding the statutory maximum,
- (b) otherwise, to a fine not exceeding level 4 on the standard scale.
- (7B) Where the commission of an offence under this section results in the taking, killing or otherwise harming of more than one salmon, the person who committed the offence is liable on summary conviction to a fine not exceeding the statutory maximum in respect of each salmon taken, killed or otherwise harmed.”.

Report on penalties in sea fisheries legislation

33CB Report on penalties in sea fisheries legislation

- (1) The Aquaculture and Fisheries (Scotland) Act 2013 is modified as follows.
- (2) After section 60, insert—

“Report on penalties

60A Report on penalties in sea fisheries legislation

- (1) The Scottish Ministers must publish a report on the effectiveness of relevant penalties in ensuring compliance with the sea fisheries legislation—
- (a) within the Scottish enforcement area, and
- (b) by Scottish fishing boats (wherever they are operating).
- (2) The report must, in particular—
- (a) set out the relevant penalties covered by the report,
- (b) explain why those penalties have been selected,
- (c) assess the effectiveness of those penalties in ensuring compliance with the sea fisheries legislation, and
- (d) identify any changes to the penalties that the Scottish Ministers consider likely to improve compliance with the sea fisheries legislation.
- (3) The report may include any other matters related to the sea fisheries legislation that the Scottish Ministers consider appropriate.
- (4) In preparing the report, the Scottish Ministers must consult such persons as they consider appropriate.

- (5) The Scottish Ministers must—
- (a) publish the report within the period of 2 years beginning with the day on which this section comes into force, and
 - (b) before publishing the report, lay the report before the Scottish Parliament.
- 5 (6) The Scottish Ministers may by regulations modify a penalty in the sea fisheries legislation in connection with a change identified under subsection (2)(d).
- (7) In this section—
- (a) a “relevant penalty” is a penalty—
 - (i) contained in the legislation, and
 - 10 (ii) which the Scottish Ministers consider appropriate to review.
 - (b) “Scottish enforcement area” and “sea fisheries legislation” are to be construed in accordance with section 53.”.
- (3) In section 62(2)(a), at end insert—
- “(ab) regulations under section 60A(6),”.

15

PART 4C**GULLS****33D Report on gull population**

- (1) Scottish Natural Heritage (in this section referred to as “SNH”) must, in respect of each reporting period, prepare and publish a report on the gull population in coastal and urban areas of Scotland.
- 20 (2) A report under subsection (1) must—
- (a) provide information about the gull population in coastal and urban areas,
 - (b) set out (so far as possible) any shift or trend in the distribution of gulls between coastal and urban areas,
 - 25 (c) include any other matter relating to the gull population in coastal and urban areas as SNH consider appropriate.
- (3) In subsection (1), “reporting period” means—
- (a) in the case of the first report, the period of 5 years beginning with the day after Royal Assent,
 - 30 (b) each subsequent period of 5 years.
- (4) In this section, “gull” means gulls of the species—
- (a) black-headed gull (*Chroicocephalus ridibundus*),
 - (b) common gull (*Larus canus*),
 - (c) great black-backed gull (*Larus marinus*),
 - 35 (d) herring gull (*Larus argentatus*), and
 - (e) lesser black-backed gull (*Larus fuscus*).

PART 4D

SCALLOP SHELLS

33E Guidance about scallops

- 5 (1) The Scottish Ministers must issue guidance in relation to the by-products conditions and the end-of-waste conditions for scallop shells.
- (2) The waste regulation authority is to have regard to any guidance issued under this section in relation to the exercise of its functions.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult—
- 10 (a) the Scottish Environment Protection Agency,
- (b) Food Standards Scotland,
- (c) such other persons as they consider appropriate.
- (4) The Scottish Ministers must—
- 15 (a) issue guidance under subsection (1) within the period of 1 year beginning with the date this section comes into force, and
- (b) publish any guidance issued.
- (5) In this section—
- 20 (a) a reference to the by-products conditions is a reference to the conditions listed in regulation 15(3) of the Waste and Agriculture (Legislative Functions) Regulations 2022 (S.S.I. 2022/190),
- (b) a reference to the end-of-waste conditions is a reference to the conditions listed in regulation 16(3) of the Waste and Agriculture (Legislative Functions) Regulations 2022 (S.S.I. 2022/190),
- (c) the waste regulation authority is to be construed in accordance with section 30(1)(b) of the Environmental Protection Act 1990,
- 25 (d) “scallop shells” means the shells of king scallops (*Pecten maximus*) and queen scallops (*Aequipecten opercularis*).

PART 5

MISCELLANEOUS AND GENERAL

Miscellaneous

30 33EA Licensing: protection of mountain hares

- (1) Section 16 of the Wildlife and Countryside Act 1981 (Power to grant licenses.) is modified as follows.
- (2) In subsection (3), after paragraph (e) insert—
- 35 “(ea) for the purpose of falconry to kill or take mountain hares (*Lepus timidus*) during the period beginning with 1 October and ending with the last day of February;”.

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) where it considers it reasonable and appropriate to do so, propose to the applicant a different area to which the licence is to relate from that specified in the application, together with reasons for such a proposal, 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.

33G Wildfires: enabling local authorities to issue fixed penalty notices

(1) The Local Government (Scotland) Act 1973 is modified as follows.

(2) In section 201 (byelaws for good rule and government)—

(a) in subsection (3), at the beginning, insert “Subject to subsection (4),”.

(b) after subsection (3) insert—

“(4) Without limit to the generality of subsection (1), a local authority may make byelaws in connection with the prevention of wildfire (including, in particular, by prohibiting or regulating the lighting and control of a fire or any activity likely to cause a fire).”.

5 (3) After section 204 insert—

“204A Byelaws: fixed penalty notices to prevent or suppress wildfires

(1) The Scottish Ministers may by regulations make provision for and in connection with the issuing of fixed penalty notices in respect of any byelaws made under section 201 which relate to the prevention or suppression of wildfires.

10 (2) Regulations under this section must specify—

(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 local 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,

25 (e) the person to whom payment may be made and the person’s address,

(f) the payment period,

(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,

30 (i) details of any procedure for challenging or appealing the fixed penalty notice.

(5) Regulations under this section may, in particular, include provision—

(a) specifying the form and content of a fixed penalty notice,

35 (b) specifying how a person or category of persons may be authorised to issue fixed penalty notices,

(c) conferring powers to enter land (other than dwelling-houses) for or in connection with the issuing of a fixed penalty notice,

(d) 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),

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- (e) 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 (f) 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,
- (g) specifying the person to whom payment may be made (who need not be the person who issued the fixed penalty notice),
- (h) specifying the payment period,
- 10 (i) 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),
- (j) 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 (k) 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,
- 20 (l) about the methods by which fixed penalties may be paid,
- (m) 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),
- 25 (n) 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),
- (o) 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),
- 30 (p) for additional procedure relating to fixed penalty notices (for example to make provision for hearings or appeals),
- (q) 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,
- 35 (r) specifying persons who may prepare and publish guidance on issuing fixed penalty notices (including when prosecution is more appropriate),
- (s) creating offences relating to—
- 40 (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.

(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—

- (a) persons that they consider to be representative of local authorities, and
- (b) such other persons as they consider to be interested in or affected by the issuing of fixed penalty notices in respect of any byelaws made under section 201 which relate to the prevention or suppression of wildfires.

(8) Regulations under this section—

- (a) are subject to the negative procedure if the regulations are only—
 - (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.

(9) Regulations under this section may also make—

- (a) incidental, supplemental, consequential, transitional, transitory or saving provision that the Scottish Ministers think necessary or expedient,
- (b) different provision for different purposes.

(10) In this section—

“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.”.

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) is a reference to (any of)—
 - (i) a Scottish public authority,
 - (ii) so far as not falling within sub-paragraph (i), a cross-border public authority, and
 - (iii) a statutory undertaker and any person exercising functions of a public nature, but

(b) does not include—

- (i) any court or tribunal or body exercising the judicial power of the state, or
- (ii) any body to which paragraph 3(2) of Part III of schedule 5 of the Scotland Act 1998 applies.”.

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

34ZA Further provision about Ramsar sites

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

(2) After section 38, insert—

“38A Ramsar sites: power to make further provision

(1) The Scottish Ministers must by regulations make provision for and in connection with the preservation and protection of designated wetlands.

(2) Without limit to the generality of subsection (1), regulations under this section may—

(a) make provision about—

- (i) the identification and listing of wetlands,
- (ii) the conservation of designated wetlands, including by setting conservation objectives, and
- (iii) monitoring designated wetlands,

(b) modify the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716) (“the habitats regulations”),

(c) apply particular provisions of the habitats regulations to designated wetlands,

(d) modify or apply any other enactment (including this Act),

(e) create or apply offences and penalties,

(f) confer a power of entry to land (other than a dwelling-house).

(3) The maximum penalty that may be provided for in regulations under this section creating an offence is—

(a) on summary conviction, a fine not exceeding level 5 on the standard scale,

(b) on indictment, a fine.

(4) Before making regulations under this section, the Scottish Ministers must—

(a) consult—

- (i) SNH,
- (ii) Environmental Standards Scotland, and
- (iii) any other persons that the Scottish Ministers consider likely to be affected by or interested in the regulations, and

(b) be satisfied that making the regulations will maintain or improve the level of environmental protection existing in law at the time the statement is made.

5 (5) The Scottish Ministers must, at the same time as laying any regulations under subsection (1), lay before the Scottish Parliament a statement explaining why they are satisfied that the regulations will maintain or improve the level of environmental protection existing in law at the time the statement is made.

10 (6) Regulations under this section must be made within the period of 5 years beginning with the day on which the Bill for the Natural Environment (Scotland) Act 2026 receives Royal Assent.

(7) In this section, “designated wetlands” means wetlands designated as described in section 38(1).

(8) Regulations under subsection (1) are subject to the affirmative procedure.”.

15 (3) In section 53 (orders and regulations: general), in subsection (4), after “2G,” (inserted by section 1(4) of this Act), insert “38A,”.

34ZB Sustainable forest management

(1) The Forestry and Land Management (Scotland) Act 2018 is modified as follows.

(2) After section 8, insert—

“Power to make further provision in relation to sustainable forest management

8A Sustainable forest management: further provision

20 (1) The Scottish Ministers may by regulations make further provision in connection with sustainable forest management (including the implementation of the forestry strategy).

(2) Regulations under this section may, in particular—

25 (a) require specified persons to comply with specified requirements of the UK Forestry Standard,

(b) provide for the issuing of a remedial notice under section 54(1) in respect of a failure to comply with such a specified requirement,

30 (c) make provision about circumstances in which the specified requirements do not apply.

(3) Before making regulations under this section, the Scottish Ministers must consult—

(a) persons that they consider are representative of the forestry sector in Scotland, and

35 (b) such other persons as they consider appropriate.

(4) In the event that there is a new edition of the UK Forestry Standard endorsed by the Scottish Ministers, the Scottish Ministers must—

(a) review any regulations made under this section, and

40 (b) if appropriate, lay a draft of a Scottish statutory instrument containing regulations updating the regulations before Parliament.

(5) For the purpose of this section—

(a) “the UK Forestry Standard” means—

- (i) the fifth edition of the technical standard for sustainable forest management, published in 2023 and endorsed by the Scottish Ministers,
- (ii) the most recently published subsequent edition of such standard which is endorsed by the Scottish Ministers, or
- (iii) in the event of there being no published UK Forestry Standard which is endorsed by the Scottish Ministers, such other document as the Scottish Ministers consider most similar to the UK Forestry Standard,

(b) “specified” means specified in the regulations.”.

(3) In section 22 (key terms in Part 4), after the definition of “temporary stop notice” insert—

““UKFS requirement” means a requirement specified in regulations made under section 8A(1).”.

(4) In section 53 (power of entry: failure to comply)—

(a) in subsection (1)—

- (i) the “or” immediately following paragraph (e) is repealed,
- (ii) after paragraph (f), insert “, or
- (g) a UKFS requirement.”,

(b) in subsection (2), for “or (as the case may be) the notice” substitute “, the notice or (as the case may be) the UKFS requirement”,

(c) in subsection (3), after paragraph (c) insert—

“(d) in the case of a UKFS requirement, the land on which the particular forestry activity to which the UKFS requirement relates is taking place.”.

(5) In section 54 (remedial notices)—

(a) in subsection (1)—

- (i) the “or” immediately following paragraph (c) is repealed,
- (ii) after paragraph (d), insert “, or
- (e) a UKFS requirement.”,

(b) in subsection (3), for “or (as the case may be) registered notice to comply” substitute “, registered notice to comply or (as the case may be) UKFS requirement”.

(6) In section 76 (regulations), in subsection (2), before paragraph (a) insert—

“(za) section 8A(1).”.

(7) In schedule 3 (index of defined expressions), at the appropriate place insert—

“UKFS requirement	Section 22”.
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34ZC Forestry: offence of unauthorised felling

- (1) The Forestry and Land Management (Scotland) Act 2018 is modified as follows.
- (2) In section 23 (offence of unauthorised felling)—
- (a) in subsection (1) after “fells” insert “or knowingly causes or permits another person to fell”,
- (b) after subsection (3), insert—
- “(4) It is a defence for a person charged with an offence under subsection (1) to show that the person reasonably believed that the felling was carried out in accordance with a permission, direction or notice mentioned in paragraph (b)(i) to (vi) of that subsection.”.

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.

34B Muirburn licensing: making muirburn for purpose of approved training course

- (1) The Wildlife Management and Muirburn (Scotland) Act 2024 is amended as follows.
- (2) In section 13 (application for muirburn licence), in subsection (2)—
- (a) in paragraph (a), after sub-paragraph (vi) insert—
- “(vii) training as part of a training course approved under section 17,”,
- (b) in paragraph (b), after sub-paragraph (iv) insert—
- “(v) training as part of a training course approved under section 17.”.
- (3) In section 14 (grant of muirburn licence), in subsection (2)—
- (a) in paragraph (a), after “(ii)” insert “or (b)(i) to (iii)”,
- (b) in paragraph (b), for “(vi)” substitute “(vii) or (b)(iv) or (v)”.

34C Muirburn licensing: grounds for grant of licence

- (1) The Wildlife Management and Muirburn (Scotland) Act 2024 is amended as follows.
- (2) In section 14 (grant of muirburn licence), in subsection (1)(b), paragraph (ii) 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 PASSED]

An Act of the Scottish Parliament to make provision about setting targets relating to biodiversity; to make provision in relation to national parks; to make provision in connection with the management of deer; to make certain other miscellaneous provisions relating to environmental matters; and for connected purposes.

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

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