



The Scottish Parliament
Pàrlamaid na h-Alba

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE

AGENDA

15th Meeting, 2017 (Session 5)

Tuesday 23 May 2017

The Committee will meet at 10.15 am in the Robert Burns Room (CR1).

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.
2. **Wild Animals in Travelling Circuses (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Andrew Voas, Veterinary Adviser, and Angela Lawson, Solicitor, Scottish Government.
3. **Public petition PE1615:** The Committee will consider a petition by Logan Steele, on behalf of the Scottish Raptor Group, on a state regulated licensing system for gamebird hunting in Scotland.
4. **Work programme:** The Committee will consider its work programme.
5. **Wild Animals in Travelling Circuses (Scotland) Bill (in private):** The Committee will consider evidence heard earlier in the meeting.

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The papers for this meeting are as follows—

Agenda item 2

Wild Animals in Travelling Circuses (Scotland) Bill Cover Note ECCLR/S5/17/15/1

PRIVATE PAPER ECCLR/S5/17/15/2
(P)

Agenda item 3

PE1615 Cover Note ECCLR/S5/17/15/3

Agenda item 4

PRIVATE PAPER ECCLR/S5/17/15/4
(P)

Environment, Climate Change and Land Reform Committee

15th Meeting, 2017 (Session 5)

Tuesday 23 May 2017

Wild Animals in Travelling Circuses (Scotland) Bill cover note

Introduction

1. The Wild Animals in Travelling Circuses (Scotland) Bill was introduced in the Scottish Parliament on 10 May 2017. The Scottish Government has published the following documents in relation to the Bill:

- [Wild Animals in Travelling Circuses \(Scotland\) Bill As Introduced](#)
- [Policy Memorandum](#)
- [Explanatory Notes](#)
- [Financial Memorandum](#)
- [Statement on Legislative Competence](#)
- [Delegated Powers Memorandum](#)

The Scottish Parliament's Information Centre (SPICe) has also [published a briefing on the Bill](#).

2. Under rule 9.6 of the Standing Orders, the Parliamentary Bureau referred the Bill to the Environment, Climate Change and Land Reform Committee to consider and report on the general principles.

3. No secondary Committee was appointment to scrutinise the Bill. However, the Finance and Constitution Committee will consider the Financial Memorandum to the Bill. Provisions in section 7(2) of the Bill also mean that it will be considered by the Delegated Powers and Law Reform Committee at Stage 1.

4. This paper sets out the background to the Bill and the Committee's approach to consideration of the Bill at Stage 1.

Background to the Bill

5. The Scottish Government received a number of [representations](#) highlighting "significant concerns" on wild animals in travelling circuses during the Scottish Government's 2004 consultation on the Animal Health and Welfare (Scotland) Bill, which became the 2006 Act¹.

¹ Details of the passage of the Animal Health and Welfare (Scotland) Bill can be found [here](#).

6. Subsequently, a [public consultation](#) on whether the use of wild animals in travelling circuses should be banned in Scotland ran between January and April 2014. The consultation posed questions based on the following themes:

- Respect for the animals
- Travelling environment
- Ethical costs and benefits
- Financial impacts of a ban
- Should Scotland ban the use of wild animals in travelling circuses

7. A total of 2043 responses were received and the [analysis document](#), published in May 2015, highlights the preference for a ban among respondents. As the Scottish Government's [website](#) notes, "95.8% respondents [were] of the view that there are no benefits to having wild animals in travelling circuses" and "95.7% of respondents also took the view that the concerns surrounding the travelling circus environment could only be resolved by banning wild animals in travelling circuses."

8. The consultation document posed questions restricted to the issue of use of wild animals in travelling circuses, and the Bill is similarly aimed at the specific combination of both wild animals and travelling for the purpose of display or performance. The responses highlighted a number of additional animal welfare and ethical concerns beyond the issue of wild animals in travelling circuses.

Wild Animals in Travelling Circuses (Scotland) Bill – Contents of the Bill

9. The Bill "*proposes to make it an offence to use any wild animal in a travelling circus in Scotland*". The justification for the creation of the offence is on ethical grounds, rather than specific welfare issues. The Bill does not cover other circumstances relating to either the transportation of animals or the display or performance of animals in isolation. The Bill also does not cover any other aspects of animal welfare.

10. Although aimed at a very specific set of circumstances, these have not arisen in Scotland for many years. According to the Financial Memorandum, only two travelling circuses have "*visited Scotland in the last five years and none in the past 12 months*".

11. The Bill contains 8 sections and 2 schedules:

- **Section 1** establishes the offence
- **Section 2** defines "Wild Animal"
- **Section 3** defines other key terms in the Bill, such as travelling circus and circus operator?
- **Section 4** specifies individual culpability where an organisation has committed an offence

- **Section 5** outlines the powers of enforcement
- **Section 6** defines Crown application
- **Section 7** covers commencement
- **Section 8** provides the short title.
- **Schedule 1** outlines the enforcement measures associated with the Bill, including the power to enter premises and vehicles in order to search for and examine animals.
- **Schedule 2** specifies how the powers of enforcement contained in Schedule 1 apply to Crown land.

Environment, Climate Change and Land Reform Committee Scrutiny

12. The Committee has agreed to conclude its evidence taking at Stage 1 of the Bill prior to the summer recess based on an introduction date of mid-May. The Committee's timetable for consideration of the Bill at Stage 1 is:

Date	Event
17 May 2017	Launch of Call for Evidence
23 May 2017	Bill team evidence session
6 June 2017	Evidence session with stakeholders 1
9 June 2017	Close of Call for Evidence
13 June 2017	Evidence session with stakeholders 2
27 June 2017	Cabinet Secretary evidence session

13. The Committee plans to consider its draft Stage 1 report following the summer recess and report to Parliament in September 2017.

Clerks

Environment, Climate Change and Land Reform Committee

Environment, Climate Change and Land Reform Committee

15th Meeting, 2017 (Session 5)

Tuesday 23 May 2017

PE1615: State regulated licensing system for gamebird hunting in Scotland

1. The purpose of this paper is to provide options of possible next steps which the Committee to may wish to take in relation to the petition.

Background

2. Petition [PE1615](#), from Logan Steele on behalf of the Scottish Raptor Study Group, was lodged on 22 August 2016. It calls on the Scottish Parliament to urge the Scottish Government to implement urgent action to introduce a state regulated system of licensing of gamebird hunting, that addresses the potentially adverse environmental impact of gamebird hunting, provides for the revocation or amendment of licences where a licence-holder fails to comply with their terms and conditions, and to implement the recommendations of the Review of Wildlife Crime Penalties in Scotland.

Previous Committee consideration

3. The Committee first considered the petition at its [meeting on 31 January 2017](#) where it agreed to:

- write to the Cabinet Secretary for Environment, Climate Change and Land Reform seeking information on the operation of current legislation in this area; and
- request more details on when the SNH commissioned research on gamebird licensing systems in selected other countries might be published.

4. [The SNH report was subsequently published on 25 February 2017](#) and the Committee received [a response from the Cabinet Secretary for the Environment, Climate Change and Land Reform](#) on the Scottish Government's work in this area (attached in the **Annexe**).

5. At its [meeting on 18 April 2017](#) the Committee took evidence from the petitioner and a panel of stakeholders.

Possible next steps

6. Following its evidence on the petition, a number of options are available to the Committee.

Option 1

7. In the Cabinet Secretary's letter of 7 March, Ms Cunningham wrote that a licensing regime for shooting businesses "remains an option that we may pursue if and when we think it is required." Since that letter was written, the judicial review

challenging the removal of General Licenses was unsuccessful, thus allowing such restrictions to be imposed.

8. The Committee may conclude that the current legislation and regulation in this area is working effectively. If cases of raptor persecution are found, these should be dealt with appropriately by Police Scotland and the Crown Office.

9. Therefore, given the opposing views provided at the evidence session on 18 April from conservationists and land owners/shoot managers, the Committee may wish to:

- **forward the transcript of the session to the Cabinet Secretary for her information; and**
- **close the petition.**

Option 2

10. The Committee may nevertheless come to the conclusion, based on the evidence it has heard on the petition, that there may be some value in considering a licensing system for shooting businesses based on civil law. While recognising legitimate concerns over the requirement of a sufficient burden of proof before removing a license and the potential for vexatious claims, the Committee may wish to:

- **Write to the Cabinet Secretary to say that:**
 - **despite a fall in the recorded instances of raptor persecution, the Committee recognises that there are certain areas in Scotland where raptor persecution remains a concern and is of the view that further action to address this may be required;**
 - **while there does not appear to be a significant problem of raptor persecution in relation to walk-up grouse moors, there does appear to be an issue within areas where intensive grouse management occurs;**
 - **there may be merit in operating a flexible and non-onerous licensing regime to help ensure that driven grouse shooting businesses operate sustainably and in accordance with best practice;**
 - **such a regime might take in all gamebird shooting as the petition calls for or perhaps might instead only be targeted at businesses which involve intensive grouse management.**
 - **the lower burden of proof demanded by civil law, in the view of the Committee, might enable more prosecutions to proceed in view of the remote and isolated areas where such crimes are likely to occur and the difficulties of corroboration and other higher burdens of proof in criminal law.**
 - **the Committee nevertheless appreciates the concern that incorporating civil law rather than criminal law may lower the burden of proof and therefore open up the prospect of vexatious claims of rule breaches;**
 - **however, suggest that the Scottish Government explore with stakeholders the need for/benefit of such a licensing system, how**

it might operate in practice, what it might encompass, how it could be appropriately enforced and whether such as system might feasibly be trialled in a specific area.

- **Keep the petition open pending a response from the Cabinet Secretary for Environment, Climate Change and Land Reform.**

Option 3

11. The Committee may instead wish to take forward a separate course of action.

For decision

12. The Committee is invited to agree:

- what possible action it might wish to take in relation to the petition; and
- if it agrees to write to the Cabinet Secretary, is it content to delegate to the Convener responsibility for finalising the letter?

Clerks

Environment, Climate Change and Land Reform Committee

Annexe

Letter from the Cabinet Secretary for Environment, Climate Change and Land Reform to the Convener of the Environment, Climate Change and Land Reform Committee

Thank you for your letter of 7 February 2017 in relation to petition “PE1615: State regulated licensing system for gamebird hunting in Scotland” and other points.

You asked for further information on:

- when the SNH commissioned research on gamebird licensing systems in selected other countries will be published; and
- the operation of current related legislation in this area and whether the Scottish Government has any plans to review the current licensing regime.

On the first point, as previously advised in my letter of 27 February, the SNH commissioned research on gamebird licensing systems in selected other countries was published on 25 February.

Turning to the second part of your query, I think it is fair to say that the law in Scotland relating to the hunting of gamebirds, in terms of the species that may be taken, the closed seasons, the methods that may be used etc, is generally working well. We have no reason to doubt that there is a high level of compliance among individual game bird hunters. The problem we have in Scotland, as you will be aware, is with the illegal killing of protected raptor species by some managers and owners of shooting businesses (and to a lesser extent by people seeking to protect livestock from protected raptors).

The Scottish Government has made a number of changes to the law in recent years to tackle illegal raptor killing, including the introduction of vicarious liability for certain offences in the Wildlife and Countryside Act. There have now been two convictions under the vicarious liability provisions. It is believed that the provisions have also had a deterrent effect in that they prompted a number of landowners and managers to review the training and instructions for employees and contractors to ensure that their operations are compliant with the law. The complexity and obscurity of land ownership arrangements has, I understand, been a factor in frustrating some potential vicarious liability prosecutions.

As regards licensing, it is worth recalling that we repealed the requirement for individual hunters to purchase an annual licence in 2011 as it was not thought to serve any useful purpose. I think it is unlikely that there is any case for this sort of licensing to be reintroduced.

We have made changes to the terms of the General Licences that allow pest species to be controlled, so that these Licences cannot be used by anyone who has been convicted of a wildlife crime, or on land where we have good reason to believe that wildlife crime has taken place. The first restrictions imposed based on the latter aspect are currently subject to judicial review.

On firearms licences, implementation and casework is a matter for Police Scotland, while the policy in this area is reserved to Westminster. I do agree, however, with the recommendations in Professor Poustie's report on wildlife crime penalties in which he suggested ways that firearms licensing could work to prevent wildlife crime. I am exploring ways in which we can take these forward with colleagues in Justice and with the Westminster Government.

I am aware of proposals for a system where all or particular types of shooting businesses are licensed. The idea being that if a licensed business did not comply with specified conditions or was found to be involved in illegal activity, their licence to operate would be withdrawn. I can see the attraction of this proposal in that it could be a powerful tool for deterring and responding to wildlife crime. It could also provide a means for ensuring that shooting businesses, which are at present lightly regulated, operate sustainably and in accordance with best practice. For these reasons we have stated in the past that this remains an option that we may pursue if and when we think it is required. However I should also be clear that it would be require primary legislation to bring into force which could well be difficult and contentious. It would also require additional resources to implement and enforce.

In conclusion, I would emphasise that our experience in this area is that there is no short cut to securing hard evidence of criminal behaviour. Changes to the law can only go so far, and always will need to be accompanied by effective, professional law enforcement. A licensing scheme may be a useful addition to the toolbox, but it will still depend on someone gathering evidence of wrong-doing in order to justify removal of a licence to operate a business.

Roseanna Cunningham MSP

Cabinet Secretary for Environment, Climate Change and Land Reform

7 March 2017