



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 13 September 2023

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE

22nd Meeting 2023, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jack Bloodworth (Scottish Government)

Hugh Dignon (Scottish Government)

Jackie Hughes (Scottish Government)

Edward Mountain (Highlands and Islands) (Con)

Lorna Slater (Minister for Green Skills, Circular Economy and Biodiversity)

Brodie Wilson (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 13 September 2023

[The Convener opened the meeting at 09:08]

Subordinate Legislation

Deer (Firearms etc) (Scotland) Amendment Order 2023 [Draft]

The Convener (Finlay Carson): Good morning, and welcome to the 22nd meeting in 2023 of the Rural Affairs and Islands Committee. Before we begin, I remind committee members who are using electronic devices to switch them to silent.

Our first item of business is consideration of the draft Deer (Firearms etc) (Scotland) Amendment Order 2023. The instrument is subject to the affirmative procedure. I welcome to the meeting Lorna Slater, the Minister for Green Skills, Circular Economy and Biodiversity, and her officials from the Scottish Government. We have Hugh Dignon, head of the wildlife management unit; Brodie Wilson, policy manager with that unit; and Norman Munro, solicitor.

I invite the minister to make an opening statement.

The Minister for Green Skills, Circular Economy and Biodiversity (Lorna Slater): I thank the committee for inviting me along to outline details of our proposed secondary legislation amendments in relation to deer management. They include proposals to amend existing legislation to reduce the minimum ammunition weight used to cull deer, permit the use of night sights to shoot deer and remove male deer close seasons.

We are all aware of the destructive impact that wild deer at high densities can cause to our natural environment through overgrazing, particularly in regenerating woodland, including Scotland's rainforest. In 2021, we agreed to implement 95 of the 99 deer working group recommendations to modernise deer management systems in Scotland. The proposals before you today are some of the first legislative recommendations to be progressed and are vital in helping us to achieve our deer management aims.

The proposed removal of male close seasons will remove the need for hundreds of out-of-season authorisations to be issued each year to

control male deer. That will save land managers time and effort, and it would—

The Convener: Minister, we are currently considering the Deer (Firearms etc) (Scotland) Amendment Order 2023; we are not yet on to the Deer (Close Seasons) (Scotland) Amendment Order 2023.

Lorna Slater: Sorry. I should have said that I have one speaking note. I am happy to keep part of it for the later discussion, if that is helpful.

The Convener: That would be helpful, because it is quite confusing having two orders in front of us. Please focus on the firearms instrument.

Lorna Slater: Certainly, convener.

The proposal to reduce the minimum ammunition weight to shoot deer will make non-lead ammunition more accessible. That is important as venison suppliers switch to accepting only carcasses that are shot with non-lead ammunition.

The use of night sights will allow longer deer shooting hours, especially in the winter months, and more effective culling operations in areas where deer use the cover of forest and woodland during the day and then, during hours of darkness, come out into more open areas, where they can be shot more easily.

The measures are part of a wider package of deer reforms that are designed to deliver a range of public outcomes, including native woodland expansion, the protection and enhancement of peatlands, and the reduction of human health and safety concerns on issues such as Lyme disease and road traffic accidents. I thank all the organisations and individuals that have contributed to their development and to delivering on these vital objectives.

The Convener: Thank you. We will move to questions from members, and I will kick off. Under the Deer (Scotland) Act 1996, the Scottish ministers are required to consult, but there was no public consultation on the instrument; instead, stakeholders who have an interest in the issue were consulted. Why was the decision taken not to go to a full public consultation?

Lorna Slater: We have met all the legal requirements to consult on the proposals. I can give you the background. The deer working group report, which contained the proposals, was published in 2020. In response to that, prior to publishing our formal response, the Scottish Government met with and sought written responses from key stakeholders, including the Association of Deer Management Groups and Scottish Environment LINK. Since our response to the report was published, in 2021, we have also met representatives, at ministerial and official

level, through individual meetings with land management organisations and through groups such as the deer management round table, with some regularity.

Through those conversations, we developed a sound understanding of the stakeholders' views on issues such as close seasons, which meant that, when we received the responses to our consultation, the views that we received were largely in line with what we already understood. Those are the steps that we have taken to consult on the matter.

The Convener: Thank you.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I have a question on that. How long did you give stakeholders to respond to the consultation? On what date did you publish the consultation and when did they respond? What was the closing date?

Lorna Slater: I can get my officials to talk about the consultation dates. I think that Brodie Wilson can talk about that.

Brodie Wilson (Scottish Government): The consultation closed on Wednesday 14 June. We gave stakeholders four weeks to respond, so it opened in the middle of May. I am sorry, but I cannot remember the exact date off the top of my head, but it would have been around 18 May, I think. The stakeholders had four weeks to respond.

Rachael Hamilton: How many working days was that?

Brodie Wilson: It was 28.

Rachael Hamilton: Was that—

Brodie Wilson: Sorry—it was 20 working days.

Rachael Hamilton: Was that the same as for other consultations that you have done on similar issues?

Brodie Wilson: It varies widely across secondary legislation.

Rachael Hamilton: Why?

Brodie Wilson: Because there is no legal minimum requirement to consult. We felt that four weeks was adequate, given that we had had so much engagement with stakeholders throughout the process.

Rachael Hamilton: Stakeholders have told me that they had very little time to engage in the process. The separate piece that you are talking about of publishing your proposals, which met legal requirements, was different. A considerable number of stakeholders were not asked to respond to the consultation within the 20 working days. A number of people have come to me and

said that they were not asked to respond to your consultation. Why was that?

Brodie Wilson: We asked all external stakeholders who are on the deer management round table to respond. I have a list of those, if you would like to see it.

Rachael Hamilton: Could you read them out?

Lorna Slater: The deer management roundtable members include: Lantra Scotland, Mountaineering Scotland, the British Deer Society, the Confederation of Forest Industries, the Game and Wildlife Conservation Trust, Trees for Life, the Scottish Gamekeepers Association, the Scottish Association for Country Sports, the Scottish Crofting Federation, the British Association for Shooting and Conservation, Woodland Trust Scotland, Lowland deer groups, Transport Scotland, Forestry and Land Scotland, Scottish Wildlife Trust, Police Scotland, Food Standards Scotland, Country Sport Scotland, NatureScot, the National Trust for Scotland, various departments within the Scottish Government including the veterinary adviser, RSPB Scotland, the Scottish Venison Association, Scottish Land & Estates, the John Muir Trust, the Association of Deer Management Groups, the Scottish Countryside Alliance, Scottish Environment LINK, NFU Scotland, SSPCA, wild deer best practice guides, the Veterinary Deer Society, the National Wildlife Crime Unit, the Centre for Ecology and Hydrology, Community Land Scotland, Scottish Forestry, Cairngorms National Park Authority, Loch Lomond and Trossachs National Park Authority, the James Hutton Institute, the Forest Policy Group and the Ramblers.

09:15

Rachael Hamilton: How many of those responded?

Lorna Slater: I believe that we received 12 responses.

Rachael Hamilton: What is the total number of members? I was not able to count them as you read them out.

Lorna Slater: About 40.

Rachael Hamilton: So, that was quite a poor response rate.

Lorna Slater: To put that in context, all of those stakeholders had been engaged in the conversation since 2020 and prior to that—it was not new information to them. When the independent deer working group published the recommendations, back in 2020, it did so on the basis of evidence that it had gathered for many months. It has been a very long process to get to where we are today, and it is on-going. The

recommendations were published back in 2020. The Scottish Government then engaged with the stakeholders to develop our response in 2021. We had those conversations and, when our consultation came out, most stakeholders had already submitted to us what they wished to say, although a few—a dozen—wrote back to us with additional information. They did not contribute any new information but largely covered the same ground. The issues have been thoroughly discussed with stakeholders.

Rachael Hamilton: I thought that it was interesting that some of the groups that supported the Government's position were looking at it from a climate change perspective rather than from an animal welfare perspective. However, that is just my observation. In particular, some organisations, such as the National Trust for Scotland, Woodland Trust Scotland, Nature Foundation and Trees for Life, were not looking at it from an animal welfare perspective. I have to put my cards on the table and say that that is my concern around this SSI.

Ariane Burgess (Highlands and Islands) (Green): It was great to hear the context from which the instrument arose and the work of the deer working group, which was set up due to the concern about the levels of damage to public interests caused by wild deer. Those public interests include a healthy environment with flourishing biodiversity and woodlands that can capture our excess carbon emissions. Minister, to what extent is increased deer control important for our natural regeneration?

Lorna Slater: As the committee probably knows, deer numbers have doubled in Scotland since 1990. That is not a sustainable trajectory, given that deer can have serious impacts on the environment through overgrazing and trampling of vulnerable habitats, preventing young trees from growing. Research on the national forest estate in 2013 found that 15 to 20 per cent of young trees at that time had been damaged by deer—and, of course, deer numbers are higher today.

In 2021, a ClimateXChange report found that browsing changes the plant diversity and foliage present, which alters our potential to capture carbon. High levels of grazing are likely to affect bog species, and associated trampling causes greater levels of damage by breaking up the moss layer and exposing bare peat. Overgrazing occurs at a much lower density in bogs compared to forestry as well. Furthermore, Forestry and Land Scotland estimates that the cost of deer damage to on-going management is around £10 million a year and is at least £47 million a year across Scotland. Between 2015 and 2020, Scottish Forestry spent just under £19 million on deer fencing.

In addition to the environmental concerns that the member highlights, there are human and public safety concerns with regard to deer-vehicle collisions. It is estimated that there are between 8,000 and 14,000 deer-vehicle collisions in Scotland every year, and, in 2016, a report estimated that DVCs in Scotland cost £13.8 million, although the deer working group found that that number is very much higher. So, you can see that the issue is affecting not only our forest and tree regeneration. Having high numbers of deer affects many aspects of society and is very costly.

Ariane Burgess: Another part of this SSI is about land managers being able to control deer at night. They already do that, but it is currently challenging, as they have to bring lamps into the forest. Roughly how many land managers already control deer at night, and how will this instrument make that task easier?

Lorna Slater: Around 18,640 deer are controlled at night, which is about 17 per cent of the deer that are managed. My officials might know the number of land managers who have applied for that.

Brodie Wilson: We do not have information on the specific number of applications at the moment, but we can provide it to you.

Ariane Burgess: My question is, how will the proposed change make the task easier for those land managers?

Lorna Slater: The intention of the SSI is to allow the use of the additional technology that we have mentioned. As you suggest, using the lamping technique might not be everyone's preference, and the change opens up the possibility of using night sights.

It should be noted that that means that the sights can be used during the day, too—that is currently not allowed—which is an additional tool for the land managers, who will have that option should they wish to use it.

Ariane Burgess: Have the concerns around animal welfare been looked into?

Lorna Slater: Absolutely. In 2022, NatureScot did a review into the welfare issues relating to the use of intensifying night sights for the culling of deer at night. The review found no evidence that culling deer at night using thermal imaging technology increased the risk of deer being wounded, and it found that all the deer were humanely dispatched.

NatureScot was clear that the sights offered no significant welfare risks over and above the existing technique of lamping.

Rhoda Grant (Highlands and Islands) (Lab): What research has been carried out into the safety

of the process? To me, having people going around at night shooting things seems inherently unsafe. People walk around and go into forests at night. What research has been done to ensure that people cannot be inadvertently shot?

Lorna Slater: I am happy to cover that matter. As I have already stated, 17 per cent of deer are already shot at night. Night licences for shooting can be issued only under NatureScot authorisation, and they come with clear conditions attached. The code of practice that comes with them explicitly says, for example, that anyone shooting deer at night must be accompanied by an appropriate dog, so that a wounded deer can be tracked and dispatched humanely. NatureScot can revoke any authorisation at any time, and it will issue the authorisation only under specific conditions. It can come to inspect the site to ensure that it is safe, which relates to the public safety concerns that you raise. At any time during the authorisation period, NatureScot can ask to come along on the shoot to observe that the rules are being followed. None of that is changed by the SSI; those authorisations and safety conditions are going to be monitored in exactly the same way.

Rhoda Grant: I am thinking about the safety of people. You are talking about issues to do with animals.

Lorna Slater: That is the same matter. It is covered by NatureScot's ability to set conditions and inspect the site to ensure that conditions are safe. All shooting requires that the person pulling the trigger has a safe backstop and observes all shooting requirements. That would absolutely cover people, too. It is up to the person pulling the trigger to ensure that they have followed all the safety requirements and that it is safe for them to do so.

Rhoda Grant: It does not feel safe. Am I right in thinking that night shooting really only happens out of season? In the summer, there are long days and lots of light.

Lorna Slater: I do not have that data in front of me.

Hugh Dignon (Scottish Government): The hind season is through the winter, and a large amount of the culling will happen at that point. That is where some serious effort needs to be made in order to reduce the deer population. So, indeed, there is night shooting of hinds during the winter season.

I can add to the minister's points about the safety issues. All people who shoot at night are required to be on the fit and competent register that NatureScot operates, which means that they must have a deer stalking certificate at level 1 and two referees, or a deer stalking certificate at level

2. Further, all night shooting operations need to be notified to the police.

As the minister said, this type of operation has been carried out for many years now with no public safety issues as far as I am aware.

The Convener: I have a question that follows on from that. The use of light-intensifying sights, heat-sensitive sights or other special sights is quite different from lamping. So, although I am not an expert, I suggest that the skill level that is required to ensure a clean kill is significantly higher with the newer methods. However, it appears that the legislation will allow people to use the new methods without there being a separate authorisation scheme. Are there plans to bring in additional training requirements or update the best practice guide?

Lorna Slater: NatureScot will update the best practice guide.

The Convener: Will it update the level of competence that is required in order for someone to be authorised to engage in night shooting if that person is using night sights rather than going lamping? There is quite a difference in the skill level that is required.

Lorna Slater: NatureScot authorisations require that the people carrying out the shooting under those conditions are properly qualified and are following the best practice guidance. That is the mechanism. When the new best practice guidance is issued, alongside this legislation, it will be up to NatureScot to ensure, through its authorisation mechanisms, that that guidance is followed.

The Convener: My concern is that, if someone is authorised to lamp, that would mean that they were automatically authorised to use night sights without any additional conditions applying to that authorisation, which might mean that, if NatureScot refused to authorise someone to use night sights, because it felt that there was an issue with that person's ability to use them safely or competently, they would lose the ability to lamp as well.

Lorna Slater: I am not sure that your assumption that an authorisation to go lamping automatically allows someone to use different technology is correct, but I am happy to get the information on that to you. I do not know whether the authorisation specifies which technology is to be used—I do not have that level of detail with me—but I am happy to clarify the position for you.

The Convener: The possibility that, if people are deemed not to be suitably trained or qualified to use night-vision sights, they might not get a lamping licence, because the authorisation covers both things, is quite concerning. As far as I can see, there is no differentiation between an

authorisation for lamping and an authorisation for night sights.

Hugh Dignon: I would just add that, when NatureScot reviewed the position, it did not recommend that any further training be required in relation to the use of night sights—either the thermal-intensification or the image-enhancing sights—so I am not sure that we would accept the basic premise that a different level of skill is required. Clearly, lamping and the use of night sights are both things that require people to have experience and to be on the fit and competent register, but, as I said, NatureScot did not identify that the use of night sights involved a different skill set or required additional training.

The Convener: There are also different levels of specification of night sights, which could increase the margin of potential error. Is there any specification of the equipment that needs to be used for the heat-sensitive or light-intensifying sights? Lamping is lamping—you have a light source that enables you to use standard sights to shoot—but the night sights will have different specifications. I could go into a shop and buy night sights for an air rifle that would not be adequate to be used safely by someone stalking deer at night.

Lorna Slater: As we have said already, stalking at night can be done only under authorisation, and people doing that stalking have to pass the fit and competent test. We have not specified the types of scopes that can be used, because technology is always evolving, and there are many scopes on the market. The specific authorisation for night shooting is the mechanism for ensuring that people who are doing it are fully qualified to do so. Of course, as with all these matters, it is up to the operator—the person who is pulling the trigger—to correctly identify the target animal, identify potential risks and ensure a safe backstop. That remains true whatever equipment anyone is using at any time.

The Convener: Rachael Hamilton has a short supplementary question.

09:30

Rachael Hamilton: The minister has answered the questions, but it looks as though operators will need two types of equipment to do what the SSI requires. Investment in equipment will be required, and that money will need to come out of the budget. I have spoken to people who say that it will cost them, on average, £10,000 to get equipment that is up to standard. Hugh Dignon is shaking his head, but I have heard from stakeholders who say that.

The minister has said that changes will need to be made to best practice and to the fit and competent test for night shooting authorisations for

the welfare of the operator. We are being expected to pass the SSI when we have no answer to those questions. It is just like what has happened with other pieces of legislation that have passed responsibility for codes of practice to NatureScot. Committee members are being expected to be mind readers and to know what will be in the fit and competent test so that the welfare of operators can be upheld.

Lorna Slater: I am afraid that the member is not accurate in what she has said. The SSI does not require the use of night sights; it allows the use of night sights.

Rachael Hamilton: You are trying to control the deer population, which means that more operators will go out and shoot more.

Lorna Slater: You said that we are requiring people to buy night sights; we are not requiring them to do that. They will now be allowed to use the new technology—

Rachael Hamilton: No, this is an unintended consequence. Let us consider the practicalities. Things need to be safe, and you are expecting operators to go out and shoot more deer in order to control the deer population, so they will be doing more shooting, possibly at night. It is a hypothetical situation, but the likelihood is that that will happen, so operators will require the right equipment. Why would you not want an operator to have the right equipment? I do not understand.

Lorna Slater: The SSI that will be passed today allows the use of the equipment. We know that 17 per cent of the deer that are culled in Scotland are culled at night, so we know that people wish to do that. If they wish to cull deer at night, they may now do so using sights. That is the change to the legislation. We are not requiring anyone to manage deer in that way, and we are not requiring them to use any particular equipment. We are merely opening up the option should they wish to do that.

With regard to the fit and competent test, the fit test relates to someone having a certificate to be able to use firearms, and the competent test relates to someone holding the correct deer stalking certificate and the correct authorisations from NatureScot. Those matters are unchanged. Of course, the authorisation will be in line with the new guidance that NatureScot will issue on using the equipment safely.

I think that Rachael Hamilton has misunderstood. The SSI does not require anything of anyone. It just allows the equipment to be used should people wish to do so.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): Good morning. As I understand it, one reason for the SSI is to make non-lead alternatives

more accessible so that more carcasses can enter the food chain, which is a positive thing. In the past few years, we have seen examples of huge levels of waste, particularly when non-shooting, non-commercial estates have culled tens, if not hundreds, of deer and left them to rot. What engagement has the Scottish Government had with estates that might be considering doing that? What encouragement is being given to ensure that that great meat source is relieving hunger in this country rather than being wasted?

Lorna Slater: I support your call for a thriving venison industry, and I agree that we should ensure that those deer become a reliable food source. You correctly identified that changing the ammunition weight allows non-lead ammunition to be used by more practitioners, because it fits the standard firearm that most people have.

We are doing several things to ensure that there is a thriving venison industry. We have been working with those in the industry to promote venison as a healthy lean meat by providing £60,000 of funding for an online marketing campaign. We have been supporting local chill and processing facilities through £80,000 of funding being made available for a pilot project. I am also aware that the Scottish Venison Association has recently announced that its partnership with the Country Food Trust will result in wild venison from Scottish deer going to food banks, kitchens and other charities.

Kate Forbes: That is very helpful. You might be familiar with the Country Food Trust, which does a great job in taking venison that might otherwise go to waste and creating nutritious meals that it then donates to food banks.

One of the risks, however, is that, if there is a massive increase in culling, particularly out of season, that has a huge impact on the likelihood of that meat being eaten. The idea that we might be wasting meat sits so wrongly with me. Does the Scottish Government have a word of warning to give that, if we are to see culling increase, particularly out of season, that is not a licence to see far more carcasses going to waste, especially if one of the benefits of this SSI is actually to see more carcasses going into the food network?

Lorna Slater: I absolutely support what the member says. Have we drifted into discussing the close season?

Kate Forbes: No, we have not—we are very much still on the first SSI.

Lorna Slater: We absolutely need to make sure that venison can go into the venison industry and that we remove lead ammunition and increase the options there. I think that we can all work towards ensuring that we have a thriving venison industry. Does Hugh Dignon want to come in on that?

Hugh Dignon: I have a couple of minor things to add. First, the proportion of carcasses that have been left on the hillside is tiny. There were some incidents a couple of years ago that aroused considerable opposition among deer managers, but such incidents are pretty isolated and the people involved probably do not do that very much. They would argue that there are some conservation reasons why, where carcasses were in an inaccessible position, they might have taken some of the best cuts from them and left some of the carcass there for golden eagle management and so on.

On the other side, we have certainly been talking with venison wholesalers and the like about the likely effects of the increase in cull and how we can improve the market for venison and get it out to the wider public.

The Convener: We have been joined by Edward Mountain. Edward, do you have some questions?

Edward Mountain (Highlands and Islands) (Con): Yes—thank you, convener. Before I go any further, I remind members of my entry in the register of members' interests. I have a small farming partnership that has roe deer on its land, which are given protection because my neighbours kill an awful lot of them.

Minister, I am less concerned about the use of night sights. I am disappointed that you are unable to say that there will be a difference between using image-intensifying, infrared and TI sights, and which sights will be acceptable under the legislation. I think that that is an admission—it is an admission on training as well, and the extra requirements in that regard.

As the convener said, you can see the backdrop with lights at night but you cannot see the backdrop with thermal imaging. You can to a certain extent with II and IR, but not with TI, because it will just blend in with the backdrop. That concerns me if there is to be no extra training.

I would like to ask you about non-lead ammunition and the use of copper bullets. The point of lead and expanding bullets is to cause catastrophic shock to the animal, which causes it to die instantaneously. There is some tolerance, when you are using lead bullets, on the exact bullet placement; if you are slightly further back on where you should be shooting at, it will still pick up the lungs and the liver and cause the animal to die almost instantaneously.

That is not so with lighter bullets and copper. What investigations have you done regarding the use of copper bullets and bullet placement where you are going to shoot the animal, especially at night, using a TI, an II or an IR sight? How are you

are going to achieve that with lighter bullets that require more accurate bullet placement?

Lorna Slater: Absolutely. NatureScot undertook a trial of the minimum bullet weights that are being proposed to shoot deer, in order to ensure that animal welfare would not be compromised. I share the member's concern about that.

We considered the results of the NatureScot report, alongside advice from NatureScot on deer welfare. I read NatureScot's "Review of the minimum bullet weight for the lawful culling of all deer species in Scotland" report—it is very interesting with regard to the placement of the shot and so on. The review found that the proposed changes would have

"no detrimental effect on deer welfare."

That is partly because, along with the change to the minimum weight, the requirements for muzzle velocity and bullet energy are unchanged. With regard to the effect that the member mentions, that fits within the grounds for leeway—there is, as he said, some leeway in that regard—because it still requires the minimum energy of the bullet to have that impact on the animal.

Edward Mountain: I would love to have a long discussion about ballistics with the minister. Muzzle velocity is one thing, but it is nothing to do with delivering a certain number of kilojoules of energy directly at the point of aim. The problem with lighter copper bullets is that, unless you hit a bone, there will be deflection. There is no doubt that, if you hit an animal slightly further forward on the shoulder blade, the bullet can travel over the shoulder blade and out the other side. If you hit it too far back, in the guts, it might pass directly through the animal because there is no expansion.

Using copper bullets is fine during the day, because you can aim specifically for a bone at the top of the leg and, one would hope, hit it. Are you confident that that can be achieved with thermal imaging, infrared illuminators and IR sights? I am a practitioner with 40 years' experience, and I am not sure that I would be able to do it, and I have used some very good thermal imaging sights.

Lorna Slater: When NatureScot investigated the use of night sights and the proposed change to ammunition weights, it did not find any welfare concerns at all, over and above those that apply in relation to lamping, which is a practice for trying to see things in the dark. No additional welfare concerns were found. That has been addressed from the ammunition angle and the night-sight angle.

Of course, as Edward Mountain will know, it is always up to the practitioner not to take the shot unless it is safe to do so—unless they have a correct backstop and the animal has been

correctly identified and paired up with any young that it might be responsible for. It is always up to the person who pulls the trigger to decide whether the shot is safe to take.

Edward Mountain: Did NatureScot carry out its experiments on whether it is possible to achieve what is sought with night sights at night? If it did not do so at night, I would question those results. I am asking from a welfare point of view, because the welfare of animals is really important. I will come on to that in the second part of my questioning.

Lorna Slater: Two different sets of tests were carried out. There was a review of welfare issues using image-intensifying rifle sights for culling deer at night. I do not know what ammunition was used for that testing. There was separate testing on the use of copper bullets. That testing looked extensively at where the animal was hit and whether it was still possible to dispatch the animal humanely. Both of those tests have been done.

Edward Mountain: They were probably done during daylight, which is the equivalent of using a lamp at night. It works fine in those circumstances. Has it been explained how difficult it is to achieve that with a TI sight, an II and an IR sight?

Lorna Slater: The NatureScot report on minimum bullet weight involved an experiment to understand how the bullet impacted the animal when it was shot in different places on the body. That would address Edward Mountain's concern.

Edward Mountain: I am afraid that it does not address my concern. It is very difficult to follow up on animals that have been shot at night, to minimise any welfare issue. You cannot do that unless you have a dog with you.

I want to pick up on your comments that using night sights would allow more extensive deer culling to go on over a bigger period and that Forestry and Land Scotland spent £10 million a year on deer control. I have here some figures that I know are correct. Forestry and Land Scotland asks its rangers to kill more than two deer every day of the year that they work. That amounts to a huge number, which is probably not achievable. If some of that £10 million was spent on putting people on the ground, more deer culls would probably be achieved and the proposed measures would not be necessary.

Are you comfortable that harrying an animal from dawn to dusk, irrespective of its sex, is the right way to do it? To me, it sounds like a form of warfare, which is something that I used to do when I was in the army.

Lorna Slater: The Scottish Animal Welfare Commission and OneKind were among the stakeholders that were consulted on the

proposals, and no welfare concerns were raised by those organisations, which prioritise animal welfare—that is their reason for being—in relation to the legislative proposals. That has been looked at.

Edward Mountain briefly mentioned the use of dogs for night shooting. It is, of course, part of the good practice guidelines to have a dog to make sure that any animal can be tracked.

09:45

Edward Mountain: I am glad that you clarified that that is in the good practice guidelines. Not a single member of the Scottish Animal Welfare Commission—not a single one of them—is a deer management practitioner. They include a World Federation for Animals officer, animal welfare officers, veterinarians, police and lecturers, but not a single one has practised deer management on a large scale. That concerns me because, at the end of the day, all of us as parliamentarians must ensure the welfare of the animals that we are killing in order to protect our natural land.

Rachael Hamilton: On the subject of animal welfare, minister, you have cited the NatureScot review. I spoke to the Scottish Gamekeepers Association, which cited a study by the Royal (Dick) school of veterinary studies—the Dick Vet. From that study the SGA concluded that

“Night shooting ... is a method proven under test conditions to be the least in the interest of animal welfare, which requires quick, humane dispatch”,

and for that reason the SGA opposes

“the normalisation of night shooting”.

As my colleague Edward Mountain has said, we need to look at this issue from a practitioner’s point of view. I do not know the opinion of FLS on this. Does it agree with the SGA? Why did you not get more information around the humane cull of deer from the Dick Vet?

Lorna Slater: Scotland’s chief veterinary officer was one of the members of the deer management round table.

I want to make it really clear that night shooting requires an authorisation from NatureScot. The authorisation requires that the good practice guidelines be met and that NatureScot is allowed to come and see the site where the night shooting will take place and even to accompany the practitioners when they do that. That is unchanged—night shooting requires that special authorisation.

We know that there is demand for this move because, as I said, 17 per cent of the animals that are culled are shot at night. The need for authorisation will not change: night shooting will

still require that special authorisation and special oversight from NatureScot. Again, the legislation does not make night shooting a requirement. People who wish to manage their deer at night may now use these new technologies—that is what has changed. It is a new option open to land managers, should they wish to use it. They are absolutely not required to do so, but if they do, they will be required to obtain the correct authorisation from NatureScot.

Rachael Hamilton: I think that the figure you quoted was that 17 per cent of culled deer are culled at night.

Lorna Slater: That is correct.

Rachael Hamilton: What percentage of the operators doing that are operating within public land?

Lorna Slater: I do not have that information in front of me, but I am happy to write to you with it.

Rachael Hamilton: Thank you.

The Convener: I am still concerned about the fact that there is only one authorisation scheme. Can you give us an indication of how many stalkers are currently authorised to lamp—to shoot at night?

Lorna Slater: Authorisations are not given to individuals; they are for a certain circumstance. An authorisation for a night shooting is for a specific set of circumstances—specific dates and specific locations. There are no blanket authorisations for an operator.

The Convener: How can NatureScot be assured that the stalker has the appropriate training if the authorisation is not for individuals? I am concerned about the lowest common denominator here. If there is only one authorisation scheme, someone who is authorised to shoot at night—to lamp—would automatically be able to shoot using night sights. As we have already suggested—and I think we have agreed—that requires a different level of skill, given the margins of error that infrared or heat-sensitive sights have. If someone was at the standard to be able to lamp, they would automatically get authorisation to use night sights—is that correct?

Lorna Slater: Every night-shooting project gets its own authorisation. Authorisations are for a fixed period of time, under fixed circumstances, and they specify which practitioners are doing the work, so—

The Convener: But is that based on the technology or based on the fact that the practitioner is seen as being up to standard? I know that we are talking not about individuals but about a scheme. So, if someone puts in an application for authorisation for night shooting in a

forest, they would only need to come up to the lamping standard, but they could, in effect, go out and use infrared sights under that authorisation. It is a general you-can-shoot-at-night authorisation.

Lorna Slater: It is not a general authorisation because it is specific: it specifies a location, a time period, who will be doing the work and the outcomes. I do not have in front of me the detailed paperwork as to what that authorisation requires, but it is a detailed and specific authorisation for a particular night-shooting project—

The Convener: But it is not specific about the method or what practitioners are able to carry out that shooting.

Lorna Slater: That would absolutely be part of it.

Hugh Dignon: The authorisation would require the individuals involved—that is, those who are going to carry out the work—to be named, and all those individuals would need to be on the fit and competent register.

The Convener: Fit and competent to lamp, but not necessarily fit and competent to—

Hugh Dignon: As I explained earlier, and as I think the minister has also said, the fit and competent register requires that an individual has at least deer stalking certificate level 1 and has some referees who will give evidence to the fact that the person follows best practice and understands the business involved in deer stalking, or a deer stalking certificate level 2. That gets a person on to the fit and competent register. The person also, of course, needs to have a firearms certificate; that is the other aspect of a person's being fit, as the minister said.

I go back to the point that, when NatureScot reviewed this, it did not find that a different level of skill set that would require additional training was necessary for the use of those new additional pieces of equipment. There will be changes to the best practice guidance, which will involve things around shot placement and so on, but the review that NatureScot carried out and the evidence that it submitted to us did not point to a different level of skill or training being required.

The Convener: For the record, I am very concerned that the scheme potentially does not require anyone to say whether they are going to lamp or whether they are going to use infrared or thermal sights. That means that an authorisation could potentially be given to someone who is competent in lamping but who has never used a night sight at all and who may also not be equipped with sights that are up to the standard that we would like in order to ensure not only the highest level of animal welfare but also public safety, which is where my concern lies.

Rachael Hamilton: Minister, how many operators are on the fit and competent register and how many spot checks does NatureScot do?

Lorna Slater: I do not have that information with me, but I am happy to write to the committee with it.

The Convener: As we do not have any further questions, we move to the next agenda item, which is formal consideration of the motion to approve the instrument. I invite the minister to move motion S6M-09460.

Lorna Slater: I move,

That the Rural Affairs and Islands Committee recommends that the Deer (Firearms etc.) (Scotland) Amendment Order 2023 be approved.

The Convener: As no member wishes to debate the motion, is the committee content to recommend approval of the instrument?

Members: No.

The Convener: We are not agreed, so we will move to a vote.

For

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off a report on our deliberations on this affirmative SSI?

Members indicated agreement.

Deer (Close Seasons) (Scotland) Amendment Order 2023 (SSI 2023/184)

The Convener: We now move to consideration of a negative SSI and, once again, I welcome Lorna Slater, the Minister for Green Skills, Circular Economy and Biodiversity, and her officials.

I ask Lorna Slater to make an opening statement.

Lorna Slater: Thank you, convener.

The proposed removal of male close seasons will also remove the need for hundreds of out-of-season authorisations to be issued each year to control male deer, saving land managers time and effort and reducing costs to the public purse. It

means that land managers who wish to control male deer year round may do so without the administrative burden. No one is obliged to manage male deer in that way if they do not wish to.

The Scottish Government takes animal welfare matters seriously. That is why we commission evidence from the Scottish Animal Welfare Commission and major animal welfare organisations, which are supportive of this change to the legislation.

I look forward to answering your questions on the matter.

The Convener: I am minded to turn to Edward Mountain to open the questioning.

Edward Mountain: I thank the committee for allowing me to question the minister first. Minister, what concerns me more than anything else is that, under this legislation, we are going to allow a target to be painted on a male deer's back from the very day that it is born to the very day that it dies. It can be shot literally as it appears out of its mother until the day it dies. Do you think that that is reasonable, fair and right for proper deer management?

Lorna Slater: We are bringing forward all these proposals by the deer management group to help manage the numbers of deer in Scotland, which have doubled in the past 30 years. We know that that is not sustainable; we need to be able to cull deer. The fact is that deer, including male deer, nibble at shoots and trees and trample the peat year round. We need to be able to manage their numbers.

Male deer close seasons were traditionally in place not for animal welfare reasons but to ensure that male deer were able to grow suitable antlers for use in the sporting season. As there is no animal welfare reason for male close seasons, removing the close season does not affect welfare.

However, it does mean that practitioners are able to shoot deer year round without that administrative burden. Some 48 per cent—so, nearly half—of male deer culled in Scotland are already culled out of season. However, to do so, operators have to submit quite a lot of paperwork, so it is an administrative burden. The legislation will change that to allow people to do what they are already doing, but without the paperwork.

Edward Mountain: Actually, minister, I hate to say that you are wrong, but you are wrong. The reason for close deer seasons was not to allow for antler growth—that is fundamentally untrue. The reason for close seasons is that the deer were in very poor shape, in most cases, after they had completed the rut—certainly the red deer were. By

harrying them all year round, you are increasing the pressures on them.

As a deer manager, I can give you an example. I picked up 60 young stags that were dead on the edge of a plantation after a very cold and wet spring—and that was without their being harried and being given a fair chance to recover after the rut. What you are going to do will increase that sort of occurrence. If you are basing this legislation on the idea that it is all about growing antlers, I am afraid that that is wrong.

Minister, are you happy that, when a deer is at its weakest, most challenged point, before it goes into the most challenging season of the year—winter in Scotland—you are going to be harrying it and shooting it at every possible opportunity?

Lorna Slater: The member might know that in England, Wales and Ireland, for example, male deer can be culled during the rut, and that has been the case for many years without there being any significant concern about welfare. It is common practice in the rest of the United Kingdom. There are no welfare concerns about hunting male deer at any particular time of the year over and above whether the deer is tired when you shoot it, which does matter to that particular deer. It is up to the stalkers—

10:00

Edward Mountain: Minister, I am sorry, but with the greatest respect, you have just stated another untruth. In Scotland's male close seasons, you shoot male deer during the rut process, but after the rut you give them a chance to recover. It is a pity—and really disappointing—that you have made that comment, because that is the second thing that proves a lack of knowledge about how to manage deer.

Stags can now be shot just as they are going into the rut; on 20 October, when they have come out of the rut and are coming back to the lowlands to recover so that they can last the winter, they go out of season. It is a similar situation with roe deer—they rut in August, and they are then allowed to recover after the rut before they go into the winter.

I am sorry, but I do not accept what you say, and I find it hugely disrespectful to the animals that you are talking about that you do not know when they are currently being shot in Scotland.

The Convener: I remind members that we have plenty of time to discuss the legislation; it is just—

Edward Mountain: I am happy to ask no further questions and to allow the committee to continue. I will take my time up during the time when I—

The Convener: I was just reminding you that we have plenty of time, so there is no need to interrupt the minister when she is giving a response. I want to make sure that we carry out our debate with the highest level of respect. So, if the minister is responding, I request that you do not interact until she has finished her answer. You will have plenty of time during the debate phase, and later in the agenda, to raise all the points that you need to raise.

Edward Mountain: I am suitably chastised, convener, and on that note I will keep my questions and comments for when I speak to my motion to annul. I just feel passionately about the subject, and it is really important that we are factually correct when we deal with the welfare of animals.

Lorna Slater: If I may, convener, I will respond to Mr Mountain's final point. As I said earlier, we know from the latest data that we have that 48 per cent of culled male deer—or nearly half—are currently culled out of season. We know that there is demand from some land managers to be able to do that activity out of season, and the legislation that we are proposing merely removes the administrative burden for those who wish to manage their deer in that way.

Of course, anyone who does not wish to manage their deer in that way and who wishes to leave the deer after the rut may do so. What we are proposing is not an obligation.

The Convener: Just for clarity, and before I bring in Alasdair Allan, I see that the policy note in our briefing suggests that

"15% of Scotland's annual deer cull is undertaken out of season."

You used the figure of 45 per cent—

Lorna Slater: It is 48 per cent for male deer.

The Convener: So, the 15 per cent figure is actually inaccurate.

Lorna Slater: The 15 per cent includes female deer—the 48 per cent relates to male deer.

The Convener: So, 48 per cent of the male cull is out of season, but for the overall deer population, it is 15 per cent.

Lorna Slater: That is correct. Female deer are less likely to be culled out of season, because there are welfare concerns with female deer suckling young.

The Convener: Okay—thank you. I call Alasdair Allan.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Minister, can you say a bit more about the reasons and the context for all this? You mentioned a doubling of deer numbers. Would it be fair to

observe that, in many parts of the country, deer numbers are out of control?

I am thinking, for instance, of a public meeting that I attended in my constituency, where debate raged over whether 100 per cent of the deer on South Uist should be killed or merely 90 per cent of them. Nobody spoke up for anything less than 90 per cent. I do not pretend that that is typical of all areas, but would it be fair to say that deer numbers in Scotland are out of control?

Lorna Slater: That is a fair assessment for certain parts of Scotland. I know that some—in fact, many—land managers manage their deer very well, whether they are managing for regeneration or for specific interests.

Overall, though, the member is correct. With deer numbers doubling, the numbers are unsustainable and will not allow us to reach our biodiversity, nature restoration or carbon sequestration goals. Even commercial interests in forestry and crops are being damaged by deer, and we have already heard the numbers with regard to road traffic accidents and so on. An overabundance of deer is certainly causing issues.

Alasdair Allan: Aside from the environmental consequences that you have mentioned, is there also an animal welfare consequence to not intervening here? The prospect of malnourished deer or deer in poor condition has been raised. Would it be fair to say that one of the big reasons for deer being malnourished and in poor condition, to the point at which many cannot successfully leap a fence, is because in many places there are too many of them and they cannot survive in the habitat in which they have multiplied?

Lorna Slater: That would certainly be the case in many places. Of course, many deer managers do manage for the health of the animals, and that requires culling the weak animals as appropriate to ensure that the herd is healthy.

The legislation that we are discussing just now will give land managers another option. It is an option that they already have, but they will now have it without the additional paperwork—that is the big change.

Alasdair Allan: Mr Mountain has raised the prospect both here today and online of deer calves being killed the moment that they are born. Do you feel that Scotland's land managers, keepers, farmers, crofters and landowners are any more minded to do that to male deer now than they have been to deer in general in the past? Is there any evidence of large-scale attempts by landowners, land managers and others to kill deer the moment that they are born?

Lorna Slater: No, I do not think that that is true. I do not have evidence to that effect, but I do not

think that it is true. Our land managers and stalkers share the concern of members in this room about animal welfare, and they manage their animals in the best interests of the animals' health and the landscape.

It is, of course, up to the land manager and the professional undertaking the deer management to make decisions on animal welfare. If they feel that the animals are being harassed or that there is a welfare concern, they can decide not to undertake that stalking activity at that time. That is fully within the discretion of the professionals who undertake that activity, and I know that those professionals take animal welfare very seriously.

Rhoda Grant: I have a supplementary question about the percentage of deer that are killed out of season. You said that nearly 50 per cent of culled stags are killed out of season. What is the percentage of culled hinds that are killed out of season?

Lorna Slater: It is much lower. I would have to work the number back. Fifteen per cent of all deer that are culled are culled out of season, but it is 48 per cent of all culled male deer. I would have to do the maths to get that figure, but only a very small percentage of culled females are culled out of season.

Although no welfare concerns have been identified in the evidence base that we have for culling male deer out of season, there are potential welfare concerns with culling female deer out of season, particularly if they are suckling young, because that could lead to suffering for the young. It can be done, but only under very specific authorisation, and the stalker has to be sure to get both. As I said, it is done a lot less than with male deer.

Rhoda Grant: I absolutely get that we need to manage deer numbers and protect the environment, but deer numbers being allowed to get out of control seems to be a recent phenomenon. Given the number of licences that are being applied for, which is why you are putting forward the SSI, what steps has NatureScot taken to encourage land managers to manage their deer numbers?

We have all heard of contract killing coming in to manage deer numbers, almost against the will of some land managers. We hear stories about deer being shot from helicopters and obscene things like that going on. What does NatureScot do when such contracts are let out to manage deer numbers? How does it encourage those land managers to manage their deer properly in season?

Lorna Slater: I would not want the member to think that shooting deer from helicopters is part of standard deer management practice at all. We

support deer management in Scotland in various ways. We have heard about the money that Forestry and Land Scotland invests to protect those lands. The key mechanism for the management of deer by land managers is the deer management groups in which several land holdings get together and come to an agreement on how to manage deer, because they move between land holdings. The purpose of those agreements is to allow the land managers to decide what the right number of deer is and how they want to manage them. The association of those deer management groups has been part of the gathering of the evidence base.

NatureScot has been involved in on-going efforts to manage deer, including siting and installing fencing and making sure that fencing is marked so that it does not hinder capercaillie or other ground-nesting birds that may fly into the fences and be injured. The management of deer is a comprehensive project that is undertaken by NatureScot as well as land and forestry managers.

It may be of interest to the member to know that, way back in 1959, the Deer (Scotland) Act 1959 was introduced with the intention of reducing the impact of red deer on forestry and agriculture. We think that, since then, red deer numbers have doubled twice—between 1959 and 1990, and between 1990 and now. The existing deer management measures that are in place have not succeeded in the aim, as set out in 1959, of managing those pressures. Deer numbers have been increasing, which is why the Scottish Government asked the deer working group—an independent body—to come to us with some new suggestions. What was happening was not working. That is where the 99 suggestions came from, and we are discussing the first three as part of a legislative programme for updated deer management.

Rhoda Grant: Deer are a healthy food source; the meat is nutritious and it has a low carbon impact. However, given the way that deer are dealt with out of season, they are not going into the food chain. We have heard reports that deer are being left to rot on the hill. I am not convinced that the Scottish Government has pursued every possible solution to the problem by holding land managers responsible for managing their deer numbers in a way that allows the deer to go into the food chain.

We know that deer fences keep them out and that it is possible for people to manage deer numbers on their land down to zero—or as close to that as possible, as one or two will always get across—if they want to. If someone has a deer fence and they manage their numbers, they can manage the deer properly. Can we assess whether all those options have been used before

we use the nuclear option of killing deer willy-nilly at any point?

Lorna Slater: I am not comfortable with the framing that the proposal will result in the killing of deer willy-nilly. That is not the situation. We are proposing to remove an administrative burden. As we have discussed, male deer are already being shot year round. People just need some paperwork in order to do that. No one is obliged to do that, but we know that land managers want and need to manage deer in that way, which is why they apply for hundreds of permits to allow them to do that every year.

The point about venison is a good one. Managing deer, which involves building and maintaining fences and hiring professionals to do the stalking, is costly and expensive. As Hugh Dignon outlined, only a very small number of carcasses are left on the hillside to rot. That is not a common practice and I would not want the member to think that it was.

I have had several meetings with the venison industry about this and it did not have any particular concerns about the change to the close season. It thinks that it might even help because it will expand the shoulder seasons. The stags may be in good condition earlier in the year, which could provide a steadier stream of venison.

One of the challenges with the venison market is that it is so seasonal. Removing the close season will give land managers a bit more flexibility to be able to level out the season and make the venison market steadier and easier to handle. It will also be easier on the infrastructure that is required, such as the cool rooms and other facilities. The venison industry has not had any particular issues with the proposal and it should open up such options.

As we cull more deer in Scotland because we need to do so, that will increase the supply of venison. As I outlined earlier, we are investing in making sure the infrastructure is in place and that, as the member says, the excellent, organic, healthy meat gets on to people's plates.

The Convener: Before I bring in Karen Adam, Beatrice Wishart has a supplementary question.

Beatrice Wishart (Shetland Islands) (LD): Following on from Rhoda Grant's questions, I have a question about deer numbers. You said that they have doubled since 1990. However, when I had a conversation with a non-governmental organisation recently, it indicated that the numbers have been relatively stable over the past 20 years. You said that the numbers doubled between 1959 and 1990 and again between 1990 and now. You will appreciate the confusion about understanding the figures. Can you say a bit more about the

impression that the numbers have been stable in the past 20 years?

10:15

Lorna Slater: Absolutely. The figures that I have come from the deer working group, which looked into the evidence to present the 99 recommendations. The change that we have seen since the 1950s is that roe deer and red deer are now established across Scotland. They have increased their ranges. In 1959, the estimated red deer population was around 155,000 individuals. By 1990, that estimate had doubled. In 1990, the total deer population was estimated to be 500,000 individuals. In 2020, the deer working group estimated that we were approaching 1 million individuals, so the figure had doubled again. That estimate was made in 2020, which is three years ago, so the figure is likely to be higher now.

Beatrice Wishart: Thank you for the clarification.

Karen Adam (Banffshire and Buchan Coast) (SNP): We have touched on the environmental impacts of deer and why the SSI is necessary for animal welfare, and you have spoken about the public safety aspect. I would like you to go into a bit more detail and explain to us what type of public safety measures the SSI would help to support.

Lorna Slater: The human safety concerns are initially around deer-vehicle collisions. There are estimated to be between 8,000 and 14,000 such collisions in Scotland every year. They are, of course, a risk to human safety, and they also represent a cost. The estimate is that DVCs in Scotland cost £13.8 million per year. That figure is from 2016 so, again, it is likely to be higher now.

There are also some concerns around hosts for Lyme disease. When we look at the other instrument that we will discuss this morning, which is on bracken, we can discuss the fact that more evidence is required to understand tick-borne disease. We do not have a huge amount of evidence on that, but it is likely to have an impact.

Rachael Hamilton: I have a brief question on road traffic accidents. To register my interest, I note that my daughter had a very bad accident like those that you have described, but she is fine. I do not understand how road traffic accidents can be prevented if male deer are being shot near pregnant hinds, causing them to bolt. How will you monitor the number of road traffic accidents if you are using the SSI to bring the numbers down? I do not understand how you can monitor the reduction in the number of accidents due to the SSI.

Lorna Slater: We can monitor the number of road traffic accidents in Scotland. The SSI is part

of a larger package of measures. As we reduce the number of deer in Scotland, the number of collisions with those deer will reduce.

Rachael Hamilton: Okay. I have a specific question that goes beyond that, which I will ask later. That was a supplementary question on the point about road traffic accidents.

Kate Forbes: I have a series of questions, the first of which concerns the comments that you helpfully made about the figures. You talked about the fact that nearly half of the deer that are culled are already culled out of season, so the primary change through the SSI is to the administrative burden. My challenge, particularly as a representative of a rural area who is always on the receiving end of legitimate lobbying, is that, during the past few years, we have generally been increasing the burden of administration and authorisation when it comes to shooting or culling. In this case, we appear to be reducing that need. Is that entirely for environmental reasons? How comfortable are you that we are actually reducing the administrative burden when it comes to what is essentially a licence to shoot, in contrast with the general theme of the past few years?

Lorna Slater: That is an excellent question. The work of the deer working group was primarily around concerns about what the deer are nibbling on. Those concerns are partly commercial, relating to crops and forestry, but they are also environmental. Overgrazing causes environmental and commercial problems, which is why we need to address the overall deer numbers.

The member touches on the point that the legislation will not solve the whole problem on its own. The working group made 99 recommendations and this single, relatively minor change to the paperwork that is needed to manage male deer out of season will not resolve the problem by itself. However, it is a small step towards that. It is one tool that we can use to support land managers to do what they already want to do. We know that some land managers wish to manage their deer in that way, and the instrument means that they will be able to do so without the paperwork. It is nice to be able to remove a paperwork burden where we can. Where our interests align, in that land managers want this option and the Scottish Government wishes to update deer management, it is a good thing that we are able to do that.

Kate Forbes: An example from recent years is mountain hares. In the debate about that, one argument that was made as to why land managers should still be allowed to shoot and cull mountain hares was that high growth in numbers would lead to hare starvation because the habitat could not sustain them. I think that we need to think more carefully about how we explain the fact that we

have taken a very different direction on mountain hares, which have a detrimental impact on vegetation and on trees—I believe—that is equal to that of deer. The gamekeepers who have questioned me have asked how we explain the two different approaches that the Government is taking to mountain hares, for example, and deer.

Lorna Slater: That is an excellent question. The member is, of course, correct in saying that mountain hares can cause damage, for example by grazing on newly planted trees. The big difference is the population numbers. As we have discussed, the numbers of deer in Scotland are enormous—they have doubled and doubled again since the 1950s—whereas the mountain hares have unfavourable conservation status and there are simply not enough of them to require that kind of management. As there are fewer hares, the scale of the impact that they can have is much smaller. It is, of course, still possible to manage hares under licence when that is necessary. That tool is still available.

We need to increase the numbers of deer that are culled each year in order to meet our targets. Finding ways to make that easier for land managers when they wish to manage their deer in that way is part of what the project is about.

Kate Forbes: I have two more questions. One of the root challenges in relation to the statutory instrument is the sense from gamekeepers and land managers that their expertise and many years of experience are being sidelined. They often feel as though their vast knowledge is not treated with the respect that it deserves when it comes to such matters. What has the Government done specifically to consult gamekeepers and other land managers in order to learn from them? How do we ensure that the relationship between the Government and gamekeepers is strong and based on mutual respect?

Lorna Slater: I hope that the relationship is strong and based on mutual respect. I have engaged with gamekeepers on many occasions and on many visits—we have had some excellent visits. We have a lot in common in wanting to increase the venison industry, help managers to have more choice in how they manage their land and ensure that we are managing deer for healthy herds while having consideration for the welfare of the animals. Where we have those things in common, we have been able to engage very fully.

Members of representative organisations, including both the British Association for Shooting and Conservation and the Scottish Gamekeepers Association, have been engaged at every step of the process from 2020, when the recommendations were published, through 2021, when the Scottish Government submitted its response. They have written to us as part of our

consultation and we have considered those responses. I have had meetings with those organisations, including most recently on 7 June with BASC. Officials have met the Scottish Gamekeepers Association alongside NatureScot this year as well. There have been recent meetings in that space and they will be on-going.

I recognise the expertise of land managers. The legislation that we are proposing allows them choice. We are not dictating how they may manage their land. If they wish to continue to observe a close season, they may do so. However, where land managers wish to have more flexibility, the legislation will allow them to make the decision using their expertise.

Kate Forbes: I have some final questions. I have great respect for gamekeepers and land managers, many of whom have said that, irrespective of the legislation, they will still honour the close season. My concern relates to those who might prioritise environmental concerns over and above animal welfare issues. That sits quite uncomfortably with me. First, how will you keep that under review? Secondly, will you heed any new evidence that emerges relating to, for example, those who might disregard animal welfare concerns in order to prioritise tree planting?

Lorna Slater: Absolutely—I am always open to hearing new evidence. If there were incidents of poor animal welfare management, I would be very interested in hearing about them. We absolutely share that interest. As I said earlier, animal welfare groups have been consulted on the SSI and have been included in the discussions. No welfare issues were raised with respect to the close season for male deer—none at all.

Kate Forbes: Thank you.

The Convener: I have a couple of questions about the deer cull. How many authorisations for out-of-season culling are sought but rejected? Have authorisations been rejected? If so, on what basis are they rejected?

Lorna Slater: I am not aware that any have been rejected.

Brodie Wilson: A general authorisation is needed for the out-of-season shooting of male deer, so, as long as people meet the conditions, they can access the authorisation themselves. Such authorisations are not routinely rejected.

The Convener: Okay. If 48 per cent of culled male deer are culled out of season and we take away the red tape, what is the percentage likely to increase to? If there is no close season, how many additional male deer will be controlled during what was the close season?

Lorna Slater: It is unknown how many land managers would wish to manage their deer that way over and above what is currently being done. The percentage of male deer that are shot out of season has gradually increased from 23 per cent in 2013 to 48 per cent between 2019 and 2020—almost a 5 percentage point increase per year. Therefore, even with the current authorisation requirement, there has been a steady year-on-year increase in the number of land managers who wish to manage their deer in that way. I cannot predict how many more land managers might wish to take up the option. The number might increase, but we will, to some extent, have to wait and see. Given that such a significant proportion of deer are already being managed in that way, land managers clearly have an appetite for it.

The Convener: I am confused because, although you suggested that the change will result in a decrease in the number of road accidents, you have given no indication whatsoever that it will have any effect on the number of deer that are culled.

Lorna Slater: The SSI is part of the 99 recommendations. On its own, it will not make all the difference that we need to make. It is part of a larger programme of work. It removes the administrative burden, which was one of the recommendations from the deer working group, but I would not expect the SSI to have a measurable impact on its own.

The Convener: I imagine that you will be aware of some figures relating to the 48 per cent figure. Of the 48 per cent of male deer culled, how many are culled on forestry land?

Lorna Slater: I do not have that information in front of me.

The Convener: Is it likely to be the bulk of the 48 per cent?

Hugh Dignon: It is quite a significant proportion.

The Convener: The main benefactors of taking away the red tape will therefore be Forestry and Land Scotland.

Hugh Dignon: Forestry and Land Scotland already culls a third of the deer in Scotland, so it will inevitably be a big player.

Brodie Wilson: I can add to that. In 2019-20, 41,331 male deer were culled out of season. Forestry and Land Scotland culled about 11,000 male deer out of season in 2022-23, so it culls a proportion of them but not the vast majority of them.

The Convener: That is helpful.

10:30

Alasdair Allan: Some of the arguments around the instrument have focused on animal welfare. Will you say a bit more about the animal welfare evidence that you have considered? I am thinking of—this has been alluded to—the Scottish Animal Welfare Commission’s finding that

“Providing the normal requirements for high standards of public safety and animal welfare are adhered to ... there is no need for a close season for males”.

What animal welfare evidence has been considered?

Lorna Slater: The Scottish Government has looked at close seasons in other countries in the rest of the UK, which are substantially different from here, and the reasons for those close seasons being in place. As you rightly said, the Scottish Animal Welfare Commission did not consider that changing the close season would make any difference, provided that all high standards of public safety and animal welfare are adhered to. By consulting with the groups that work in this space, we can understand that.

I know that there are some concerns, as raised by Mr Mountain, about the harassing of deer, but that goes back to the expertise and professionalism of stalkers and people undertaking that work. They have deer welfare at heart and if they feel that deer are being distressed or that there are welfare concerns, they should stop that action. I am sure that they would do so, because they have those concerns.

Rachael Hamilton: On the land that Forestry and Land Scotland manages, how many applications for general authorisation certificates have been turned down? If you are trying to cut red tape, is it a problem that applications for general authorisation certificates, which cover shooting male deer out of season, have been turned down?

Lorna Slater: As far as I am aware, no applications have been turned down.

Rachael Hamilton: So, how will the order cut red tape for the likes of FLS?

Lorna Slater: It will not have to submit those authorisations any more.

Rachael Hamilton: FLS will not have to submit them at all, but even if it did, they would not be turned down, so what is the problem?

Lorna Slater: I am sorry; the forms are submitted to NatureScot.

Hugh Dignon: The red tape for NatureScot in administering those authorisations is as much the issue.

Rachael Hamilton: Right. So, this is a burden on NatureScot’s administration.

Lorna Slater: Forestry and Land Scotland has to prepare the authorisation forms and send them in. NatureScot then has to process them. The forms are never declined; they are always accepted, so there is no need for that step to be taken.

Rachael Hamilton: Okay. Going back to basics, is it the male or female cull that reduces deer numbers?

Lorna Slater: All deer, of either sex, do damage through overgrazing. By reducing male deer numbers we will reduce that impact, particularly in the season in which they are removed.

I think that you are alluding to the fact that, for long-term deer management, we also need to manage female deer numbers. I do not want to be distracted by this particular bit of legislation, which is, as we have discussed, one part of the 99 recommendations for updating deer management in Scotland. The other two items that we are discussing today, of course, apply to female deer, as do many of the items that come under those 99 recommendations.

The order is just one small piece of the puzzle of that picture. The measure was identified by the deer working group as an opportunity to reduce paperwork and align interests, and it recommended that we undertake it.

Rachael Hamilton: Does the Scottish Government have evidence that targeting males all year round will control the deer population?

Lorna Slater: The evidence was considered by the deer working group, which then made the recommendation to us, and we have accepted it. The evidence was analysed by the deer working group.

Rachael Hamilton: I will go back to a point that I made earlier regarding the year-round culling of male deer near pregnant hinds. It is likely that hinds will bolt, which will use up reserves, and that they will not be able to get through the winter because of that. The likely welfare issues will be starvation and mortality through starvation. What consideration has the Scottish Government given to the impact of the SSI on the welfare of female deer?

Lorna Slater: That is, of course, part of the welfare consideration with regard to this issue. As we discussed just a moment ago, the professionals who undertake deer management need to consider the welfare of the animals when they are undertaking stalking. Professionals need to consider whether hinds are present and, if there are welfare considerations, they should stop their activity and do it at a different time.

That lies with the practitioners, who know best and have the expertise to make a decision as to whether to pull the trigger and whether to undertake a stalk on any particular day.

Rachael Hamilton: On the basis that land managers have raised concerns with—I presume—all of us in this room with regard to the point that Kate Forbes made, do you believe that if land managers observe the close season, the Scottish Government will achieve the reduction in population numbers that it expects?

Lorna Slater: This measure is one piece of a much broader programme of work that the deer working group identified. The measure on its own will not help us to achieve the results that we need, but it is one piece of the puzzle that has been recommended to us, so I recommend it to you all as something that was proposed by the deer working group, based on its evidence. It allows land managers to do something that they are already doing, but with less paperwork. It gives them the choice, as part of our measures to increase the number of deer that are culled in Scotland, which we know that we need to do because of the growth in numbers.

Rachael Hamilton: FLS, for example, according to Brodie Wilson's figures, accounts for 11,000 male deer being culled, without any general authorisation being turned down. If it continues to do that, the same number of deer will be controlled. If land managers who control land in private ownership choose to observe the close season, you will be in the same position as you are currently in on publicly owned land.

Lorna Slater: We do not know how many land managers have been deterred from managing out of season because of the paperwork and administration requirements—

Rachael Hamilton: Is that not a key figure that you should be considering in bringing the legislation forward?

Lorna Slater: All these measures are intended to make it easier to manage deer, and part of that involves giving land managers more tools to do so. This measure is part of the kit to allow that to happen.

As one measure on its own, it will not achieve that—it is part of the whole picture and is, relatively, such a small piece of the puzzle. It removes one bit of the administrative burden as part of a large programme and that is how it needs to be pictured. It may well increase the number of land managers who choose to manage in that way.

Rachael Hamilton: Yes, but it is not like bringing in seat belt legislation, when everybody wears a seat belt and we cut the number of road

traffic accidents. It is not like that, because you are trying to bring forward something that a group of people believe is detrimental to the welfare of female deer in particular.

Lorna Slater: No, that—

The Convener: Please—

Rachael Hamilton: That is fine.

The Convener: Thank you. I call Ariane Burgess.

Ariane Burgess: Minister, you have talked throughout the session, and just now, about the fact that this measure is part of a package of 99 measures. I do not know whether you are bringing forward, or have agreed to, all of them; that is not the point of my question. You have also talked about the relationships that you have had with land managers and professionals and practitioners on the ground in going to meet with them and discuss the issues.

It may be challenging for the committee, because we are looking at just a few of the measures in the package that you are talking about. When you go to talk to those practitioners and land managers, are you discussing those pieces as part of the whole package? Do the practitioners and the land managers understand that there are a number of measures that are going to come through over time, and do they see those bits as part of the whole, which we are perhaps not seeing?

Lorna Slater: I think that that is true—the land managers understand the need to manage deer. That is why so many deer management groups are largely voluntary organisations in which land managers have got together with their neighbours to figure out how to manage deer. The specific awareness of those exact 99 recommendations will vary, of course. Not all of them are legislative changes—some are changes to other policy areas or to the work of NatureScot and so on, so there is quite a broad range of actions.

The issue of how to reduce deer numbers in Scotland is not a simple one like legislating for people to wear seat belts; it is about a whole bunch of things, including legislation, to help to turn the ship in a slightly different direction. The existing legislation has not been sufficient to prevent the damage to tree growth, crops and human health and safety in the way that was hoped in 1959, when it was passed. The measures that we are considering today are part of that work.

When meeting stakeholders and deer management groups, I find that they are keen to emphasise that they understand the need for deer management and have concerns for animal welfare, as has been discussed. However, most of

their issues are about funding and how to pay for things, or, if someone wants to manage deer differently from how their neighbour does it, they want to know how to resolve those interests. Mostly, very practical issues come up.

The Convener: I will bring in Rhoda Grant. I unfortunately missed you out earlier, Rhoda.

Rhoda Grant: I am getting a little more concerned as I hear the evidence. Most out-of-season deer management is carried out by Forestry and Land Scotland, which is a Government agency. It applies to NatureScot, which is a Government agency, for a licence to do that. It appears that NatureScot just ticks the box and gives permission. There seems to be very little evidence of NatureScot trying to encourage the Government agency Forestry and Land Scotland, far less anybody else, to amend its practice to keep within the spirit of the law. I am getting really concerned that the measure is just about convenience and that very little thought has been given to, first, the food chain and, secondly, animal welfare.

What checks and balances are in the system? You have said that the reason for introducing the legislation is that the out-of-season management happens anyway and that the legislation will cut down on administrative burden. However, it seems to me that the administrative burden has never been doing its job, because the two Government agencies are working hand in hand to make life easy for one another.

Lorna Slater: That comes back to the point that I made about the reason for there being a male deer close season. It does not exist because of welfare issues. OneKind says that it has no objection to removing the close season for male deer as long as all the requirements for high standards are adhered to. The SSPCA recognises the need for deer management in Scotland and is not against lifting the close season for male red deer, sika, fallow or roe deer as long as control is carried out humanely by individuals trained in the use of firearms.

The close season for male deer does not exist for welfare concerns; it exists because of sporting interest concerns, particularly down in England, so that deer can grow larger antlers for the use of the sporting industry. The close season for male deer, when it was implemented in 1959, was specifically negotiated by sporting interests for that purpose. It is not there for welfare reasons and therefore removing it does not have welfare implications. NatureScot has no reason to turn down authorisations, if you see what I mean—the measures were not achieving anything.

As I have said, the recommendations have come from an external body—the independent

deer working group. The measure was identified as one of many measures that would help to get us towards where we need to be in Scotland on deer management. We need to increase our cull and reduce deer numbers, and this is one of the tools to do that.

Rhoda Grant: How many of the deer that are culled out of season go into the food chain?

Lorna Slater: I do not have numbers for that at the moment, but, of course, as many as possible go into the food chain. I am happy to write to the member with that information.

Karen Adam: I want to get clarity on a few points. We have heard arguments that more male deer might be killed earlier, straight from the womb, although we have also heard that the measure might not increase the number of deer that are killed. For clarity, what exactly would the measure do with regard to the number of deer being culled?

Lorna Slater: The measure is one of a number of measures, the intention of which is to enable us nationally to bring down deer numbers. There may be some land managers who are currently deterred from managing their male deer out of season because of the burden of having to fill in the paperwork for the authorisation. Removing that burden gives managers who wish to do that another option. On its own, the measure may only increase the number of deer culled by a tiny amount, but, because it is part of a larger programme, all of the steps need to be taken.

10:45

Of the recommendations that were made by the independent deer working group, 95 were accepted by the Scottish Government, and we are systematically working through them. These are the first three pieces of legislation that have come through. Some primary legislation is required as well, which will come later on, and there are other actions that are not legislative but that need to be taken to support deer management groups, how NatureScot practises its work, and so on.

The Convener: I want to get this clear in my head. Other than Forestry and Land Scotland, we do not have an indication of any land managers who might increase the number of deer shot out of season. Is that right?

Lorna Slater: From the number that Brodie Wilson gave us, I think that between roughly a quarter and a third of the deer shot out of season are shot by Forestry and Land Scotland, so two thirds to three quarters are being shot by other land managers. Therefore, there is a desire from other land managers as well. Without needing the authorisation, any land manager can choose to do

that without having to do the paperwork. Those who think that it is important enough to fill in the authorisation and go through that process do so, but this measure opens up the space to others who may have been put off by that.

Kate Forbes: I know that I already alluded to this, but I will put it on the record. What would reassure the committee to an extent is a willingness on the part of the Government to return at some point—say, in a year—to review the evidence over the course of the year, where there has been evidence, for example, of relatively newly born male deer being shot. Could we get a commitment that the minister will return in a year, when we can consider the evidence of how the measure has been implemented?

Lorna Slater: NatureScot keeps hold of the cull returns, and I am at the committee's disposal to come back any time.

Rachael Hamilton: I will pick up on that. Currently, if there is a general authorisation, it means that NatureScot is collecting data. In this situation, without an authorisation, it will not be collecting data.

Lorna Slater: NatureScot still collects the cull returns.

Rachael Hamilton: We have not got to that point, so how do you know that it will do so? Is that part of the agreement?

Lorna Slater: Yes—NatureScot will be collecting cull returns, because it is important for deer management that we all understand the cull numbers.

Rachael Hamilton: Okay. So, NatureScot will have oversight of anything that is attached to certain circumstances, such as, as Kate Forbes described, the age of a culled male deer?

Lorna Slater: The cull return information that NatureScot gets will be the same as it gets now—that is unchanged.

The Convener: As members have no further questions, we will move on to formal consideration of the motion to annul the instrument. I invite Edward Mountain to speak to and move motion S6M-010137.

Edward Mountain: Thank you, convener. I remind members of my entry in the register of members' interests. I have a land farming partnership and there are deer on the land.

For the committee's information, I have more than 40 years of deer management experience. When I was professionally managing land, I managed more than 200,000 acres across upland Scotland, often for private landowners, as well as some for crofters and some for farmers. I was trying to tot it up the other day, and I believe that I

have probably authorised the cull of in excess of 20,000 red deer. That is not an insignificant number. I have been involved with six deer management groups. I helped to write their deer management plans, which extended from Tongue down to Dalnacardoch, so the number of red deer that I have been party to authorising the cull of is probably closer to 100,000. That is a lot of deer. I think that I have a good understanding of deer, and I think I have a really good understanding of the need to control deer. I would like to say at the outset that I accept that deer numbers in Scotland need to be dealt with and reduced.

I will start with a few simple facts. I believe that deer management is seriously complex. You are looking not just at male numbers but at female numbers and the percentage in calf each year. There are a whole heap of things to take into account before you get into the issue of the environment and whether it can sustain the deer. I have done transects on hills across a lot of Scotland to work out whether the environment is being damaged.

However, suppressing deer numbers is not—I repeat, not—about culling male deer; it is about culling breeding female deer. Stags are just about to start rutting, if they are not rutting already, and those of you who go to the hills at the moment will see the stags holding 30-plus females. Those of you who were out in the hills in August will have seen roe bucks charging around, chasing numerous does. It is a funny thing in life, when it comes to deer management and deer as a whole, that it is not about the number of males that are required; it comes down purely to the number of females. You can think that you have no males on the ground and, come the rut, the females will find them and move to them if they cannot find them on the ground. Thus, to my mind, targeting males as a specific element of the population is futile and misplaced.

Therefore, my question is: do we need this? Let us look back at the Deer (Scotland) Act 1996, which allows for the control of deer out of season by regulation, as we have heard this morning. There are grounds for granting consent for the control of deer out of season: preventing damage to agricultural land, timber and the natural environment, and public safety. Therefore, you can get an authorisation, and much has been made of that this morning. I am thankful that that provision exists. However, what has not been made clear to the committee this morning is that there is a general authorisation that is issued all year round by NatureScot, which allows for the control of deer on improved agricultural land and enclosed woodland. You do not have to apply for anything to do that; you can do it automatically, because the general licence exists.

The only thing that that general authorisation does not allow is the killing of female deer that are over a year old. The reason for that is that they could well be pregnant at that stage, and a general authorisation would allow them to be killed in the latter stages of a pregnancy, which I think we all agree would be unacceptable. Therefore, that provision exists—we have that authorisation. There is no paperwork to complete or forms to fill in. You can get on with it, because the law says that it can be done.

Therefore, what will this legislation mean? I can tell you absolutely—I know that the matter has been discussed—that male deer will, in effect, become targets from the day that they are born to the day that they die. I have to say that by reducing the male deer population you are not going to decrease the overall deer population across Scotland—as, I think, the minister has accepted. I mentioned earlier the fact that male deer, when they have mated, are run. In many cases, they are in very poor condition. That is particularly the case for hill deer. By harrying them as they go into the winter, you will increase mortality. You absolutely will increase mortality if you are chasing those male deer before they have had a chance to recover from the rut.

Then the question is what you do with the carcasses. The minister has said that the deer industry is quite keen on having a shoulder of deer over the close seasons, when deer are not being shot. However, there is a very small close period, and you do not need it in the sense that, once the stags come out of season, the hinds come into season, and once the bucks come out of season, the does come into season—there is that continuity. Therefore, you will be left with the question of what to do with the run animals, which is what they are called. If you have ever been on the hill, you will know that can smell them from a distance. The stags stink, they are thin and scrawny and they are not fit to eat. Most game dealers will not accept them into their larders, because no one wants to eat them. Indeed, I would not eat them, and, to my mind, they are not fit for human consumption.

A point was made today—I think by Hugh Dignon—about shooting stags out of season, and I remind the committee of the not insignificant number of stags that were left on the hill at Knoydart to rot—86 of them—which is not acceptable. That is what will happen if we allow this regulation to pass.

During this process, I have been disappointed because I cannot find out who the minister consulted. The minister has alluded to the people the consultation was open to, and in a meeting on, I think, 28 June, she discussed this and said that she had Forestry and Land Scotland, NatureScot

and the Scottish Animal Welfare Commission—which does not, as I have said, have a single deer management practitioner on its board. Minister, I do not think that you even got support at that meeting from all the groups that were represented. Perhaps you can clarify that. What is abundantly clear is that deer managers—deer practitioners on the ground—were not in favour of this measure and do not support it. Perhaps in answer to that, at the end of this meeting, the minister will be in a position to clarify who actually voted in favour of the legislation and who voted against it.

We have heard today about who will use the regulation, and we have heard that people who manage deer will be unlikely to use it. I hasten to mention “people who manage deer”, because we have also heard that those who are likely to use the regulation, and who have said to me openly that they will support it, are Forestry and Land Scotland, RSPB Scotland and some landowning charities. I ask the committee to remember this: those people do not manage deer; they are not deer managers. They are land managers, and they control deer to allow their other activities to take place. I do not criticise them for that, but those are two very different objectives.

When I started the campaign and petition to overturn this—which I will talk about in a minute—I was stopped while driving down the road around Inverness by a Forestry and Land Scotland ranger, who said to me, “Thank you, Edward, for doing this. I’m disgusted by the job that I’m having to do. I’m having to kill more than two deer every day that I work. I’m told it doesn’t matter what age they are or what sex they are—whether they’re calves or females. I am told that if they are in timber, I am to destroy them.” He was disgusted. He said to me that that was not management; it was eradication.

I find that difficult, including from a welfare point of view, which I will come on to next. What the Government is suggesting by this legislation is that there will be no rest—no respite—so you can shoot male deer all year round. You can shoot them with lighter ammunition, and you can shoot them all night. It means that you are shooting them 24 hours a day, seven days a week—because there is no stopping you on a Sunday—365 days of the year. That does not sound like management to me. It sounds like something that I used to do when I was in the army, which was called warfare.

Now, the minister will deploy the argument that there are great technological advances, such as the use of suppressors, which do not frighten the deer so much. Well, people get confused about what a suppressor does on a rifle. Yes, it muffles the noise, but if you are on the receiving end of the bullet, let me tell you that you still hear the crack,

you still hear the thump and you will still run away, and that will be the case with deer.

In this process, there is no respite. As you can see when you go into woodlands, as I have done with rangers, as soon as deer see a vehicle, they are gone. As soon as they see a light at night, they are gone. That, to my mind, is not where we want to be.

I would also argue that shooting young male calves when females are in milk, especially on the hill in woodlands, is not good practice. Deer get mastitis, and it is deeply unpleasant when they do.

11:00

The fact that you are doing this with males means that you have no selection. People who manage deer take a great deal of effort to ensure that they cull deer so that males do not mate with their mothers and sisters—that is bad deer management. If you are just indiscriminately killing males, you end up with juveniles that are probably more difficult to identify and that might end up mating with their sisters and mothers. That will cause all sorts of problems and make the herd poorer.

In answer to the question about Forestry and Land Scotland, I would say that if you were to look objectively at the organisation's larder records and see who was culling deer out of season and then ask how many of the deer that Forestry and Land Scotland shoots in its woodlands are under 12 months old, you would be shocked. Very young animals, including calves, are shot. In fact, when mothers are shot, calves are automatically shot, too, and they can be just months old when that happens.

I do not believe that there are welfare grounds for doing this, and I do not think that it is necessary. This is the dichotomy for me, and it goes back to a point raised by Kate Forbes. When I sat on this committee, I heard about the need to control rabbits and look after their welfare. I agree with that, but never forget that rabbits eat trees just as much as deer do. I have also sat in this Parliament and heard about why we need to protect blue hares. There might be an argument for that—localised, I would say—but the fact is that hares, not deer, are one of the biggest destroyers of young trees. In cold weather, they have an ability to strip bark off young trees, which prevents their growth.

I have also sat here, in this Parliament, and heard about the need to protect seals. At the time, that was in relation to salmon. However, that is despite an explosion in the seal population, which is something that we are not addressing. I have also heard about how we are going to protect beavers. In the previous session of Parliament, we

heard about how we were not going to allow them to be moved around Scotland. Now, under the current Government, we are, and they are going to be given virtually total protection. We have also heard in this Parliament about why we should ban the use of glue traps to control rodents.

Can we see a common thread here with regard to small, fluffy animals—hares, rabbits, seals? Why do deer not fit into that? Why are deer not afforded the same protection as these other animals?

When I heard that this instrument was coming forward, I started an online petition. I did not advertise it; I put it on Facebook as well as on Twitter, with a few tweets. I got support from Scottish Land & Estates, the Scottish Gamekeepers Association, BASC, the Scottish Countryside Alliance and just about every other land manager in Scotland—all with little or no effort. As of today, 1,640 people have signed up to say that this must not happen. Some of the comments are unhelpful, but some are quite telling about their belief that this will not help deer management.

In summary, I have lodged this motion to annul because I do not believe that we need this instrument. It is misguided. The Government already has the ability to control deer in woodlands and on agricultural land without the authorisation to kill male deer.

I do understand the difficulties that might be placed on the Government by people who consider that this motion to annul would put them in a certain situation. I say to committee members that I absolutely accept that annulling the instrument today will not be the end of it, and I absolutely accept that the minister might wish to bring it back to the committee in a slightly bigger form. However, annulment would allow her to carry out the consultation that I believe that she has singularly failed to carry out, and it would allow her to understand some of the nuances of deer management. It is not about horn growth or, indeed, shooting deer in the rut, which we do anyway. Agreeing to the motion to annul would give the committee, which I believe is singularly important in the parliamentary process, the ability to scrutinise the Government when committee members have heard more evidence from deer practitioners.

I make no bones about the fact that I would rather that the changes did not happen, but I accept that they might happen. However, I want to ensure the primacy of the Parliament and this committee in the parliamentary process, and that the committee is heard. That is why I have lodged the motion to annul.

I am happy to take any questions that you allow, convener, on any part of what I have said.

I move,

That the Rural Affairs and Islands Committee recommends that the Deer (Close Seasons) (Scotland) Amendment Order 2023 be annulled.

The Convener: Does any member wish to debate the motion?

Ariane Burgess: I would like to raise some points against the motion to annul. We have heard this morning that, currently, 48 per cent of the male deer that are culled are shot out of season and that the minister is bringing forward regulation that will remove the administrative burden on NatureScot and Forestry and Land Scotland. I have heard from Scottish Environment LINK, which is a body that is comprised of many environmental organisations in Scotland. It states:

“we fully support all 91 recommendations of the Independent Deer Working Group accepted by Scottish Government including the removal of close seasons for male deer.”

It goes on to say:

“There is no scientific basis for maintaining close seasons for male deer. Nor is there any historical tradition for the arrangement, which was introduced by the UK Government in the 1960s at a time when the red deer population was less than half its current size. Even then, there was opposition from the ... Deer Commission based in Scotland, which expressed concern about rising deer numbers. Deer damage to habitats does not cease during close seasons.

This measure does not actually oblige any landowner to cull male deer all year round.”

Scottish Environment LINK also refers to removing “excessive bureaucracy, time, and cost to the public purse”, which is important.

We have also heard this morning that the land managers and the practitioners who are involved are professional and that they care about animal welfare, and I trust that they will carry out the work in that light. We must remember that, currently, 48 per cent of the male deer that are culled are shot out of season. I trust that, after removing the bureaucratic burden and the burden on the public purse, those professionals will continue to carry out that work in that way.

Rather than listen to anecdotal evidence on animal welfare issues, we must listen to the evidence and advice given by the Scottish Animal Welfare Commission, the SSPCA and OneKind, as they are independent and are all experts in the matter.

Edward Mountain: Convener, can I briefly answer one of the points that has been raised, or do you want me to do that at the end?

The Convener: You really need to intervene on the members.

I will bring in Beatrice Wishart.

Beatrice Wishart: I have listened carefully to the views presented today. I appreciate the need for action to protect biodiversity, and I recognise that there are negative impacts due to overpopulation of deer and that that requires action. I understand the existing licence process to obtain authorisation to shoot deer during the close seasons and that there are arguments that it is sufficient and arguments that it is overly bureaucratic. I am also concerned about the consultation process, or the lack thereof.

I am of the view that the instrument should have full parliamentary scrutiny. So, for that reason, I will support Edward Mountain’s motion, so that the SSI can come before the full Scottish Parliament.

The Convener: As no other members want to come in, I invite Edward Mountain to wind up. *[Interruption.]* Sorry—I have jumped the gun. I ask the minister to respond.

Lorna Slater: I remind the member that, as we have already discussed, all legal requirements for consultation were met. We did everything that we needed to do. In its letter, Scottish Environment LINK praised our efforts to make sure that we had fully engaged stakeholders on the matter.

People who manage their land want to have the choice about how they manage it, and Mr Mountain is correct in saying that some land management organisations are opposed to the removal of the close season for male deer. The instrument does not stop them from continuing to observe a close season. It is up to them to decide whether they wish to continue to do that.

We know that there is a demand from some land managers to manage deer out of season because deer of both sexes cause damage all year round. If managing the male deer is therefore part of handling those issues immediately, they need to be managed. Managing female deer also needs to be looked at, and two of the instruments that we have looked at today also affect female deer.

We have looked at three instruments today, but this one, in particular, is one small part of a larger approach to dealing with the overpopulation of deer, which, at high densities, cause commercial and environmental damage. The number of deer has increased so sharply in the past 30 years that we know that existing practice is simply not good enough and it is not going to get us there. We need to change existing practice. I hope that members will pass the motion to ensure that we remove this unnecessary piece of bureaucracy, so that we can give land managers those choices.

On the point about deer versus hares, as I said when I spoke to Ms Forbes, the big difference between how we manage deer and how we manage other animals is that deer are not under protected conservation status—there are too many of them. There are relatively few hares, so culling hares is a much more serious matter in terms of the survival of the species. Deer are not at any sort of risk. The member has accepted that deer numbers need to come down. The recommendations of the deer working group support that objective, and the Scottish Government is undertaking to enact the recommendations that were made by the independent body on the basis of the evidence that it gathered.

I am distressed that the member suggests that there would be indiscriminate shooting after all the conversations that we have had about how land managers want to manage their deer for good health and how skilled practitioners in the area are concerned about animal welfare. They must have the correct firearms certification and authorisation, as well as deer stalking certificates. We are talking about professionals who undertake important work. It is not right to accuse them of indiscriminate shooting, and I am distressed by that suggestion.

We can all agree that cull numbers need to go up. That might be distasteful to some people, but it is the case and it does, of course, mean that the amount of venison that will be available will also increase. That should be good for our venison market as well as being good for us if we can eat healthy meat nationally. I look forward to working with the venison industry and to helping it to develop in Scotland, because its success will be good for us all.

The Convener: I invite Edward Mountain to wind up.

Edward Mountain: I am sure that the committee has heard enough from me today, so I will keep my comments brief.

I have to respond to Ariane Burgess's comment about the administrative burden. Let me be absolutely clear that the general authorisation for the culling of deer, which was issued by NatureScot in 2023-24, allows occupiers who are suffering from damage to improved agricultural land and enclosed woodland to control the deer in the close season. No further paperwork is required. That was signed off by NatureScot. There is no administrative burden and occupiers have that right. They do not have the right to kill female deer that are more than one year old or those that have dependent calves or that are pregnant. There is, therefore, no administrative burden.

I stress that the welfare of deer is extremely important. I cannot emphasise enough that, if we are going to control wild animals, we have a responsibility to do so as humanely as possible, and that does not mean chasing them all day and all night.

I remain concerned about the consultation that the Government has carried out. I lodged the motion to annul to give the minister a chance to carry that out and see whether there is a way that those who would like to see more control of male deer during the close season and those who do not can find a way to work together. I remain concerned about the Government's consultation.

11:15

I propose the motion to annul because it would give the minister a chance to carry out a consultation and see whether there is a way that those who would like there be more control of deer, and of male deer during the close season, and those who would not can work together. With the legislation, there will be those who want more control and those who do not, and there will be a split between people who manage land. When we are trying to control deer, that is deeply unhelpful.

The Convener: I invite Mr Mountain to press or withdraw the motion.

Edward Mountain: I press the motion.

The Convener: The question is, that motion S6M-10137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

As convener, I have the casting vote. I vote in favour of the motion to annul the instrument on the basis that I believe that there is significant concern about the instrument. It does not put the issue to bed, but it allows the Government to revisit the instrument and take on board some of the suggestions that the committee has made.

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off the report on our deliberations on this negative SSI?

Members *indicated agreement.*

The Convener: That completes the consideration of the instrument.

I ask the minister and her officials to remain seated while we move to the next item of business.

Cereal Seed (Scotland) Amendment Regulations 2023 (SSI 2023/193)

The Convener: The committee will consider another negative instrument, the Cereal Seed (Scotland) Amendment Regulations 2023. Do members have any comments to make on the instrument?

Members: No.

The Convener: I suspend the meeting for a 10-minute comfort break and to allow a change of witnesses.

11:17

Meeting suspended.

11:26

On resuming—

Bracken Control

The Convener: Our next item of business is evidence on bracken control from Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity, and her Scottish Government officials, who are Jackie Hughes, deputy director at the agriculture and rural economy directorate and head of Science and Advice for Scottish Agriculture; Jack Bloodworth, principal scientific adviser at the rural and environment science and analytical services division; and Romy Strachan, policy officer. I invite the minister to make an opening statement.

Lorna Slater: Thank you for inviting me to give evidence on bracken control. This year, the Scottish ministers consented to the Health and Safety Executive's decision, because of risks to human and environmental health, to refuse the application for emergency use of Asulox in Scotland. Ministers are also aware of the risks that are associated with bracken, and our consent to the regulatory recommendation was not given lightly.

Authorisation of the emergency use of Asulox has been granted annually for 10 years, and Asulox has been applied to between 2,000 and 3,000 hectares of land—to about 2 per cent of Scottish bracken—where topography precludes mechanical control. This year, the Health and Safety Executive assessed that Asulox use did not meet the legislative requirements for authorisation, as safety concerns and risks were identified that outweighed the benefits of use.

The regulatory safety concerns centred on several points. No progress has been made in addressing the risk that relates to Asulam's endocrine-disrupting properties. The European Food Safety Authority concluded that Asulam meets the criteria for an endocrine disruptor—a substance that can alter the function of the hormonal system in humans.

No progress has been made on addressing data requirements from previous authorisations in relation to livestock exclusion restrictions and long-term risks to soil organisms, birds and mammals. There is also concern relating to the toxicity data of the technical material about a new risk, as well as concerns about detections in water.

Insignificant progress has been made on the development of alternative controls.

Without progress towards filling the data gaps as requested and removing the need for future

authorisations, it becomes difficult to characterise the need as an emergency.

The evidence about the risk that is associated with bracken was robustly assessed by ministers during the process of consenting to the regulatory advice. That included consideration of the impacts on biodiversity, forestry and grazing, as well as concerns about links with tick-borne disease.

We are committed to working closely with stakeholders to support sustainable and proportionate bracken management. In August, the cabinet secretary and I convened a stakeholder round table to discuss next steps. We committed to establishing a working group to lead on identified priorities, including further evidence gathering; to support the publication of updated bracken control guidance for land managers, which was a particular request; and to ensure that the decision on the 2024 application is communicated as early as possible, as this year's delay was frustrating.

Decisions on pesticide authorisation are based on regulation and scientific evidence, and the use of products is authorised when evidence demonstrates that they do not pose unacceptable risks to people, animals or the environment. I am happy to take any questions that the committee has.

The Convener: Thank you for your update. You have said in the past that we need to take urgent action to reverse the decrease in biodiversity and address the impact that land uses and climate change are having on nature.

11:30

It looks as if bracken biomass has increased by 28 per cent in the past two or three years, which is hugely significant. Bracken suppresses, or even kills altogether, other species that grow underneath. How will bracken control be tackled as a matter of urgency? I understand the reasons for Asulox not being licensed, but that takes away one of the primary tools for controlling the spread of bracken. Is the Scottish Government looking urgently at alternative methods to control bracken?

Lorna Slater: I challenge the assumption that Asulox was a primary means of controlling bracken, because only 2 per cent of bracken in Scotland was being treated with Asulox, while 98 per cent is managed by other means or is not managed at all.

I agree that there appears to be an overgrowth of bracken, which seems to be increasing, but we do not have solid evidence of that. As part of the process, the Scottish Government commissioned the James Hutton Institute to conduct a review of the evidence, which found some gaps. We do not

know exactly where the bracken is, whether and how quickly the spread is increasing, or which land management practices promote bracken and which discourage it.

There is a larger issue here. As part of the round table that the cabinet secretary and I had last week, we spoke with stakeholders, including farmers and environmental charities, who are affected by bracken, to understand what is needed. It sounds as if we need a big picture. The big ask was for guidance. We all agreed that we need more research to fill the data gaps and have a better understanding. We are taking action to move those projects forward because we all agreed that that is a priority.

To follow up on the final point I made my opening remarks, I realise that timing was an issue. Another ask that came from the round table was that we should improve the timing of the communication of decisions.

The Convener: A written response to a question that I asked you more than a year ago showed that you were aware then of everything that you have just said, but there has been little action on the ground. We have not seen a programme to map bracken to the extent that we need. Some research suggests that there has been a significant increase in carbon storage in areas that are not covered in bracken, which is obviously important. The safety aspects of other bracken control methods have not been looked at in any great detail.

So, a year on from a commitment that you made, nothing has happened. When will we actually see Scottish Government funding to put some of those practices in place, so that we are not in the position that we were in this year, when land managers were desperate to get a decision about Asulox? We need a far more planned approach. Is funding forthcoming?

Lorna Slater: Once again, I challenge the assertion that nothing has been done. Commissioning the James Hutton Institute to undertake a review of the existing evidence was the first step towards understanding where the gaps are, so that we can commission research into those gaps.

After our discussion with the round table last week, we have identified some of the places where the research is most needed and we can take that forward. I would be happy to write to the member about what came out of that round table and how we are going to move the research forward, because that is something that we are all interested in.

Alasdair Allan: Please say a wee bit more about the extent to which the Scottish Government could be said to be following scientific advice on

the decision, and how that compares to, or contrasts with, the position taken by the Department for the Environment, Food and Rural Affairs in England.

Lorna Slater: Absolutely. Decisions about pesticides, such as this one, are undertaken on behalf of the Scottish Government by the Health and Safety Executive, which is the delegated authority and does that based on all the necessary evidence.

The emergency application concerning Asulox was made at the UK level. The Health and Safety Executive takes evidence, makes a decision and then makes a recommendation to all four UK nations, at which point each of the four nations responds by either accepting the HSE's recommendation or by taking other action. In this case, DEFRA took another action, which was to call in the refusal and then make a different decision.

When I got the Health and Safety Executive's recommendation, I asked the UK Expert Committee on Pesticides to take a view on it. In addition, the Scottish Government's chief scientific adviser took a view. As has every Scottish minister before me, I agreed to go with the HSE's recommendation. A Scottish minister has never gone against an HSE recommendation. As to why DEFRA took a different decision, I am unfamiliar with its reasons; it has not published them.

Rhoda Grant: There are reasons why we need to control bracken, including the environmental damage that it causes. It is also quite dangerous to human health, not only because of the ticks that inhabit it but because it causes cancers. It is a no-win situation if we cannot control it.

When do you expect that the James Hutton Institute will come back to you, which will allow us to look at the issue in more detail? What alternatives are available just now? It is spreading as we speak, so doing nothing is not an option. The situation will be different—it will be worse—when we are in a position to do something about it, so it is quite concerning that nothing will happen until a policy is worked up, which will take a long time.

Lorna Slater: I am happy to go through the issues that the member has raised.

Bracken is only carcinogenic to humans if we consume it. That is not a practice in Scotland. In some parts of the world, people eat young fronds, but that is not a tradition in Scotland. Bracken does not have that effect unless you eat it. If, for example, animals eat bracken regularly as fodder and humans eat the meat of those animals regularly, there is the potential for that to be the case. Equally, however, that does not happen in Scotland; our animals do not eat bracken as their

main food source. The issues that the member raises in relation to bracken being carcinogenic do not apply here, as we do not consume bracken in that way.

The James Hutton Institute report has come back, and it has identified evidence gaps. As I said to Mr Carson, it is up to the Scottish Government to decide what research projects to undertake to fill those gaps. I have already committed to Mr Carson that I will write to the committee. In that letter, I will set out what research is needed to fill those gaps, and—

Rhoda Grant: Sorry to interrupt, but can we get a timeline as well? The timeline is important.

Lorna Slater: Absolutely. Yes, we will ensure that all the information is in there.

On the action that is being taken, 98 per cent of bracken in Scotland—so, nearly all of it—is already being managed by other means or not being managed at all. That is unchanged; only the remaining 2 per cent is affected by the refusal to grant an emergency authorisation this year.

There are a number of methods for managing bracken. It can be managed mechanically and it can be sprayed from ground level with other chemicals. There are also ecological methods, including allowing tree growth, which is a natural mechanism. We probably need to look into what those ecological methods are; that needs to be developed through the research.

We have been asked by members of the round table, which comprised farmers and other people affected by bracken, to urgently provide guidelines, setting out what we need to do. Our priority is to get those guidelines out, so that land managers know what they can do right now.

Rhoda Grant: When will those be available?

Lorna Slater: I do not have a date for that, but I can get the member that information.

The Convener: I have an issue to raise before I move on to other members. You mentioned tree growth. There was a 28 per cent increase in bracken biomass while Asulox was licensed for use. The situation would appear to be out of control. I take on board your point that we are talking about only 2 per cent of bracken, but we have removed one of the tools to tackle it. We cannot plant trees where there is bracken that needs to be controlled; doing that will not work. Is it not a chicken-and-egg situation? If you cannot plant the trees, how will they stop the growth of bracken? I am a bit confused.

Lorna Slater: I do not mean to suggest that the solution to all situations is to plant trees. That might be appropriate in some cases. We definitely need a suite of tools to manage bracken.

As for tree growth, commercial forestry interests like to clear the bracken to allow seedlings to come up straight, but they can use other mechanisms for that, such as mechanical mechanisms or ground spraying of other chemicals. The big difference with Asulox was that it allowed for aerial spraying. Other chemicals are authorised for use in ground spraying, so that can continue as it always has.

There is an interesting point about tree growth for those who are looking for natural regeneration. The rewilding group that I met said that, although it does not manage its bracken, the trees still come through. They are a bit stunted and twisted, which is fine for regeneration, albeit that it is not good for commercial forestry.

The choice of mechanism therefore depends on the desired land use, the available tools and the topography of the land in question. We need that suite of guidelines so that each land manager can make the right choice for their land.

The Convener: The James Hutton Institute's research could be critical, because it will give us an idea of which areas of bracken could be controlled by mechanical methods and those where it is not safe to do so. That will give us an indication of how successful any potential control methods will be.

Rachael Hamilton: I have a number of questions. First, before she advised land managers to use mechanical controls, had the minister visited a bracken-affected area to enable her to understand its topography?

Lorna Slater: I have never advised anyone on bracken control.

Rachael Hamilton: I am sorry—I meant the Scottish Government and not the minister.

Lorna Slater: I had not visited a bracken-infested area when I agreed to go along with the Health and Safety Executive's decision. I have visited lots of areas of Scotland that have bracken, but not with the specific intention of discussing it when making that decision. Of course, I have spoken to many land managers, including having the conversation that I have just mentioned about natural regeneration coming through bracken.

When I agreed to the Health and Safety Executive's recommendation on the matter, it was on the basis that it had looked at all the evidence for itself. I have its full report here, which I am happy to go through with the member. I also asked the UK Expert Committee on Pesticides, and we had a report from the chief scientific adviser. I undertook to consider all that evidence in agreeing to the Health and Safety Executive's advice.

Rachael Hamilton: You mentioned that you took advice from the ECP, but that remains a little

bit of a mystery to me. The HSE did not seek new advice

“from the ECP on the 2023 application as no new scientific questions were identified for independent advice.”

The ECP states that it is

“a scientific committee and ... could only provide substantive advice when adequate data are supplied to enable Members to reach conclusions”

and that it operates

“on a precautionary basis and would continue to do so on occasions where Members were unable to reach a conclusion due to lack of data.”

How did you make the conclusion when the ECP did not advise the HSE, the data was inconclusive, and no new data was provided?

Lorna Slater: I ask Jackie Hughes to come in if I have missed anything, but, as far as I understand it the ECP had made recommendations in previous years. This year, its advice was unchanged from that in previous years.

Rachael Hamilton: Well, why did you recommend it last year?

Lorna Slater: What has changed this year is the Health and Safety Executive's recommendation. I am happy to go through the reasons for that change, which I have here.

The reasons why, after 10 years of authorising the use of Asulam, the Health and Safety Executive changed its mind this year are as follows.

First, as I have already mentioned, Asulam is considered an endocrine-disrupting chemical, which is a

“substance that alters the ... functions of the ... hormonal system, causing adverse health effects”.

Since 2020, as part of the requirements for making the emergency authorisation, the Health and Safety Executive has asked applicants to provide evidence on that, which they have failed to do. That was one reason. The Health and Safety Executive was not given sufficient evidence by the applicants, which they had been asked for.

A second reason why its use was refused this year was that a new process was being considered that had a new and relevant impurity in it. The data required to evidence the toxicological assessment of that impurity was not submitted, so it could not be assessed.

Another issue is that, in previous years, after emergency applications, Asulam, which is the main chemical, has been found in water in both Scotland and England. The spraying of the chemical in Scotland led to an incident where it exceeded the water quality standard for drinking water, which was above the level for 2022. Such

evidence that it was getting into drinking water at above safe levels was another reason for the decision.

11:45

The final reason was that, although the HSE recognises the importance of managing bracken for the prevention of Lyme disease and the regeneration of habitat, it points out, and I will read out its exact answer:

“however, while the benefits of controlling bracken are set out, the applicant has indicated that bracken covers 1.5 million hectares in the UK but proposes to treat only 7,500 hectares”—

that is, in the UK—

“meaning that the danger remains in 99.5% of the UK”

and in 98 per cent of Scotland.

“Therefore, the extent of the reduction in danger is unclear and may be low.”

This year, the HSE could not authorise the treating of 2 per cent of Scottish bracken with that chemical because it has ended up in the water, we do not have data that shows that it is safe when it comes to endocrine disruption, and no toxicological data has been supplied about the new impurity in it.

Rachael Hamilton: The Bracken Control Group would contest that there is on-going research on the use of Asulox.

The response from the Government remains a bit sloppy. The response was that the Government had taken advice from the ECP; however, if the ECP advice has remained unchanged since 2022, that was technically incorrect, despite the minister now saying that other information was forthcoming.

What assessment has the Scottish Government carried out of the carcinogenic effect of the increase in the growth of bracken by watercourses?

Lorna Slater: As I have said, the paper that we have on the carcinogenic effects of bracken relates to people consuming it—eating it—which is not standard practice in Scotland, so that is not a mechanism—

Rachael Hamilton: Are you not worried about the effect of the growing bracken on watercourses?

Lorna Slater: There is no evidence of significant exposure in that respect. We have some papers on that. For example, one states:

“while some studies have linked exposure via drinking water to some cancers (e.g., Galpin et al., 1990) a FERA risk assessment from 2010 suggest that human exposure to bracken toxins via drinking water is low”.

There is a reference paper for that as well. I would be happy to share those papers with the member.

Rachael Hamilton: You referred to a figure of 2 per cent. I must have spoken to all the people who are affected, at the Royal Highland Show and the Kelso show. The topic of conversation seemed to be that land managers were left without any ability to look to an alternative. If there were concerns and the devolved Administration had the ability to make a decision much more quickly, why did you not do that, to give people clarity?

Lorna Slater: Absolutely. That is a real frustration. I, too, engaged with people at the Royal Highland Show and elsewhere, and I understand that that was a frustration. I am happy to go through that.

I remind the member that Asulox is not an authorised chemical. It has not been authorised in the UK for more than 15 years. The emergency authorisation process has been used every year to enable its use.

The timeline this year was that, on 20 March, I received the HSE recommendation. I consulted with the ECP, as discussed, and I was able to make my decision on 3 May. Because the application was for the UK, all four nations needed to respond before the result could be published. That is the convention. Some of the nations were slower than us. After all had responded, we got the final decision from DEFRA on 15 June. There was some delay in DEFRA making that decision. A further six days passed while the Scottish Government considered DEFRA’s decision before we made ours.

I am very keen to consider whether, next year, we can break convention and have different nations announcing their decisions in a more timely manner. I am happy to take away an action to discuss that with the Health and Safety Executive. That has never been done before, but, because I understand everybody’s frustration, I am happy to take that away as a discussion to have with the HSE.

Rachael Hamilton: That is helpful.

You will be aware of the new product amidosulfuron. What work is the Government doing to establish a new approach to control? Obviously, mechanical control on steep banking is not safe.

It is very difficult to suck up the argument that only in some circumstances is it important to control ticks, because they can be a public health issue for walkers, ramblers and others enjoying the countryside due to the risk of Lyme disease. We know that ticks carrying Lyme disease are more prevalent in Scotland than in the rest of the UK, which is really important, but people seem to

be picking and choosing when controlling ticks or Lyme disease is important. I am referring to the previous discussion about deer. It is important that we take a consistent approach. I make that comment.

Lorna Slater: The member is absolutely right; I agree that we need to be consistent. Bracken causes some challenges with respect to Lyme disease. Only 2 per cent of the bracken was being managed with Asulox, with 98 per cent being managed in other ways. That means that it is unlikely that the 2 per cent of bracken was making a significant difference to Lyme disease, especially because that bracken was, by definition, in areas that were topographically difficult for people to get to.

Bracken is a challenge and I absolutely understand the severity of the situation with ticks in bracken. Asulox was not solving the problem, which is one that we need to work on together, because we need a steady approach to bracken.

We also do not actually have good evidence, as was highlighted by the review carried out by the James Hutton Institute. We do not have evidence that bracken carries more ticks than other herbage, or evidence on why it might do so—it might be caused by increased deer numbers or by climate change—or why it appears that there are more ticks than there used to be. We just do not have the evidence. That is one piece of work that needs to be done.

To go back to the member's first question, the James Hutton Institute also brought up the issue of gaps in the evidence about amidosulfuron. It has been used, but there has not been enough experimentation to know whether repeated treatments would be needed or how effective it might be in the long run.

As I said at the start, the James Hutton Institute review identified the gaps in knowledge, one of which is about amidosulfuron, another of which is about ticks. We also do not know about other management mechanisms or about where the bracken is growing, or how fast. Those are all evidence gaps. In the letter that I have promised to send to the committee, I will ensure that we include information about how all those gaps might be filled and about the process for developing a research programme.

The Convener: Kate Forbes and Ariane Burgess have questions.

Kate Forbes: This may be a slight tangent. I know that the minister will be very familiar with the two large wildfires in my constituency over the summer, one at Daviot and one at Cannich. I went to visit the site of one of the fires and was repeatedly told, by environmental charities as well as by gamekeepers, that one primary reason for

the wildfires spreading so quickly, particularly at Cannich, was the fuel load. There had been a build-up of vegetation and there was a lot of stuff to burn across vast areas where the only option might be the aerial application of something to control bracken.

In your deliberations about the importance of bracken control, did you consider the risk of the fast spread of wildfires? Might that be a consideration as you weigh up the pros and cons of using particular methods of bracken control?

Lorna Slater: Let me be clear that Asulox is not an authorised chemical, but that there is a process by which it has been used. The Bracken Control Group applies for emergency authorisation and, within that application, makes arguments as to why that particular mechanism should be used. The risk of fire is not on the list of arguments, so that would not have been considered, because the HSE was not asked to consider it. If the group wished to include that reason in future applications, the HSE would do that.

The question is really interesting. It is clear that we must manage bracken—I am in no doubt about that. The question is whether Asulox is the right tool to use as part of the authorisation mechanism. That was the question at hand, not the broader question of whether we need to manage bracken, which is something that we all agree on.

Ariane Burgess: I am hearing that 2 per cent of bracken has been managed with Asulox, which is sprayed aurally—

Lorna Slater: —and from the ground.

Ariane Burgess: That was one thing that I wanted to clarify.

The reason why the Health and Safety Executive has raised the issue—it is probably why the chemical is not authorised and why it can be used only under an emergency application—is that the chemical is an endocrine disruptor. Is that correct?

Lorna Slater: Yes. The key reason is that Asulam is considered by the European Food Safety Authority to be an endocrine-disrupting chemical.

Ariane Burgess: Can you explain to some degree what endocrine disruptors do?

Lorna Slater: I can have a go. There are various hormone pathways in the body—for androgen hormones, for example, which control sex characteristics and so on. Asulam is considered an endocrine disruptor of the T pathway, which involves thyroid function. As I understand it from looking online, that largely affects embryos and developing humans.

That is the limit of my understanding—that endocrine disruptors affect human development. There is a risk that they will affect the development of birds and mammals, as well as aquatic organisms. There is a lack of evidence—neither the applicant nor the manufacturer has demonstrated that the chemical is safe. It is for the producer to demonstrate to the authorisation bodies that the product is safe to use and does not have such negative effects, and it has failed to do so.

Ariane Burgess: Who do the land managers who wish to use Asulox apply to? Is it NatureScot?

Lorna Slater: They apply to the Health and Safety Executive.

Ariane Burgess: So, the Health and Safety Executive knows where Asulox is being used in Scotland.

Lorna Slater: That is correct.

Ariane Burgess: You said that one concern is that the chemical is flowing into our watercourses. Once something gets into water, we cannot really control where it goes. Will you speak a bit more about that concern?

Lorna Slater: I have just the evidence that is in front of us, which is that Scottish Water regularly detects residues of Asulam in water supplies. As the result of one ground-spraying incident, the levels exceeded drinking water standard limits. Asulam is getting into the water table.

That relates only to Scottish Water's responsibility, which is the public water supply. In the uplands where spraying is happening, there are many private water supplies that are not tested, so we do not know whether they are being contaminated.

Ariane Burgess: You said that the James Hutton Institute will review the evidence to look for gaps and will then do more—

Lorna Slater: It has completed that work.

Ariane Burgess: Will it be doing further research?

Lorna Slater: That is to be decided. The James Hutton Institute provided an evidence review that identified all the gaps, which is now with the Scottish Government to think about how we want to move that forward. At the round table last week, we discussed the research priorities. I have committed to writing to the committee about how we intend to take forward that research.

Ariane Burgess: I might be mixing two things together but, if such work is done, will there be research on the evidence gaps for water that is not being tested?

Lorna Slater: The testing of water supplies was not one of the things that the James Hutton Institute identified, but that is an interesting point. If we take Asulam out of the system by not allowing the emergency authorisation this year, we will not expect such contamination to occur.

Ariane Burgess: You referred to the thyroid. Has the Health and Safety Executive done any work on health issues for people who are in areas where Asulam has been used?

Lorna Slater: That has not been done in relation to the detections in Scotland in the past few years, because most of them have been residual and below the level that is a safety concern. There has been just one incident when the figure was above that level. Scottish Water has worked to manage that. There is no suggestion of undertaking a large trial, which would require us to put Asulam into the landscape.

Ariane Burgess: Is there any concern about accumulation over time? Asulam has not been an authorised chemical for 15 years, but it has been used under emergency application in that time. Is there concern about an accumulation of Asulam in the land?

Lorna Slater: That is a good question. I ask Jackie Hughes to say whether that is a characteristic of Asulam.

Jackie Hughes (Scottish Government): There was nothing in the rapid evidence review particularly around persistence, was there, Jack?

Jack Bloodworth (Scottish Government): No.

Jackie Hughes: It is not something that we are particularly concerned about.

On drinking water concentrations, there have been no exceedances at tap of the permitted concentration of Asulam. We are talking about raw water. The HSE's concerns about finding some exceedances in raw water in relation to Asulam have been to do with the potential for endocrine disruption and the lack of data on that. It is difficult to characterise the risk, but there is not the level of concern that would mean that conducting the type of research that you are suggesting would be of benefit.

12:00

Ariane Burgess: Clearly, however, we need more information about that chemical and its endocrine-disrupting ability.

Lorna Slater: If we were to continue to allow its use, yes. It is with the manufacturer to bring forward its evidence. One reason why the emergency authorisation was rejected is that the manufacturer has been repeatedly asked to show the evidence that the product does not have that

effect. If it can provide that information, and, as Rachael Hamilton said, it intends to do that research and share its evidence, that is fine. Once it does so, the matter can be reconsidered.

The Convener: I am still a bit confused. This is probably one of the reasons why there was a bit of confusion when we looked at the issue prior to the summer recess. The UK Expert Committee on Pesticides looks at chemicals, and the HSE looks at that evidence to make a decision. In making its decision, the HSE considers whether the benefits outweigh the potential harm. I get that—that is one of the critical factors.

The ECP said that it would not recommend granting emergency authorisation. Much of that was due to the fact that the applicants had not provided any more information, which is one of the technical obligations for getting an emergency authorisation. It is not an emergency if nothing changes; it is an on-going issue. The ECP based its advice on the fact that, technically, nothing had changed and therefore the situation could not be considered to be an emergency.

Lorna Slater: Do you mean with the chemical?

The Convener: Yes. Does the HSE look at the impact of bracken on biodiversity or whatever? Do HSE officials sit down, do that work and then come up with a reasoned and balanced argument for recommending that ministers grant or do not grant authorisation? Is that correct?

Lorna Slater: Yes, that is correct. The convener has understood it well. The ECP looks at the chemical. There was no new information about the chemical in question. The HSE looks at things much more in the round. I have the full report with me. I will not inflict that on you, but I note that the HSE's assessment must include a series of tests, and the application must pass those tests. The application did not pass all the tests. For example, the test on the need for special circumstances was not met. Some tests were met, such as the danger test—we know that bracken is a hazard. The reasonable alternatives test was also met.

Another test is whether the emergency authorisation appears necessary to address the danger. That test was not met, because the danger from the 75,000 hectares of bracken, or however many there are, is not being met by treating only around 2,000 hectares of it.

The HSE looks at applications in the round. It agrees that bracken is a danger, but the application did not meet all the tests.

The Convener: That is interesting. Is the HSE's report in the public domain?

Jackie Hughes: No, it is not in the public domain.

The Convener: The report is quite important when it comes to our consideration of how the decision was made. Can it be made available to the committee?

Jackie Hughes: We can take that away.

Lorna Slater: I can ask.

The Convener: Thank you—that would be useful.

I have a final question, which might give you an opportunity to sum up, minister. Where are we with the national bracken strategy? I understand that NatureScot and its counterparts in England have met to discuss the approach but, as yet, they have not met stakeholders. Will you give an overview of how the strategy will be developed and how stakeholders—not just NatureScot and its counterparts in England—will be involved?

Lorna Slater: You are correct that the work to develop that is early doors. The commissioning of the work from the James Hutton Institute was a good first step, and the round-table event the other week was a good preliminary step in understanding which research areas are important and how we want stakeholders to engage.

I am not aware that, as yet, there is a plan to take that forward, but I am happy to go away, get that information and provide it to you, convener.

The Convener: Rachael Hamilton has a supplementary question.

Rachael Hamilton: I forgot to ask you something, minister. When farmers and land managers talked to me about the issue, they brought up the agri-environment climate scheme. The scheme asks them to control bracken through the use of Asulam. Will AECS change to reflect your decision on the use of that pesticide? What are your views on that?

Lorna Slater: That is a really good question. For the 2023 season, some people received money through AECS for chemical control. We have removed the ability for them to do that. It was agreed that those who had received funding would retain it and that they could alter their proposal. For example, if it was useful for them to use the money for mechanical control, that could be done. We allowed some flexibility to make sure that those AECS recipients could still make use of the funding that they had received. The cabinet secretary has—budgetary pressures permitting—committed to include funding for bracken control in the next round of AECS.

The Convener: That brings us to the end of our questions. Thank you very much, minister. You have given us a lot of time this morning, which is much appreciated.

That concludes this agenda item and the public part of our meeting.

12:06

Meeting continued in private until 12:37.

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