



# Deer (Scotland) Act 1996

## 1996 CHAPTER 58

### PART II

#### CONSERVATION, CONTROL AND SUSTAINABLE MANAGEMENT OF DEER

##### *Close seasons*

#### 5 Close seasons.

- (1) The Secretary of State—
  - (a) shall, in relation to the female of every species of deer; and
  - (b) may, in relation to the male of any species of deer,by order fix a period in each year during which no person shall take or wilfully kill or injure any deer of the sex and species named in the order, and different periods may be so fixed in relation to different species and in relation to the male and female of any species.
- (2) Before making an order under subsection (1) above, the Secretary of State may consult such persons or organisations as he thinks fit, or may direct [F1SNH] to carry out such consultation on his behalf.
- (3) Where the Secretary of State has directed [F1SNH] to carry out consultation on his behalf under subsection (2) above, [F2it] shall—
  - (a) report the results of that consultation, and
  - (b) tender such advice as [F2it] may wish in relation to the making of an order under subsection (1) above,to him within such period as he may so direct.
- (4) Where the Secretary of State or [F1SNH][F3has] carried out consultation under subsection (2) or (3) above the Secretary of State shall have regard to the results of that consultation, and to any advice tendered by [F1SNH] under subsection (3) above, before making an order under subsection (1) above.

*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

- (5) Subject to sections 14 and 25 of this Act and to subsections (6) and (7) below, any person who contravenes an order made under subsection (1) above shall be guilty of an offence.
- (6) <sup>F4</sup>... subject to section 37, of this Act, and notwithstanding anything in any agreement between an occupier of land and the owner thereof, [<sup>F1</sup>SNH] may authorise the owner or the occupier of any land or any person nominated in writing by either of them to take or kill, and to sell or otherwise dispose of, any deer found on that land during the period specified in relation to that sex and species of deer in an order under subsection (1) above, where [<sup>F5</sup>it is] satisfied that—
- <sup>F6</sup>(a) the taking or killing is necessary—
- (i) to prevent damage to any crops, pasture or human or animal foodstuffs on any agricultural land which forms part of that land; or
- (ii) to prevent damage to any enclosed woodland which forms part of that land; or]
- <sup>F6</sup>(b) the taking or killing is necessary—
- (i) to prevent damage to any unenclosed woodland which forms part of that land; or
- (ii) to prevent damage, whether directly or indirectly, to the natural heritage generally; or
- (iii) in the interests of public safety,
- and no other means of control which might reasonably be adopted in the circumstances would be adequate.]
- (7) Subject to section 37 of this Act, [<sup>F1</sup>SNH] may, for any scientific purpose, authorise any person to take or kill deer during the period specified in relation to that sex and species of deer in an order under subsection (1) above.
- <sup>F7</sup>(8) An authorisation under subsection (6) or (7) above—
- (a) may be, to any degree, general or specific (including as regards the land in relation to which it is granted);
- (b) may be granted to a particular person or to a category of persons.]

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F2** Word in s. 5(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 12(a)**; S.S.I. 2010/221, art. 3(2), Sch.
- F3** Word in s. 5(4) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 12(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F4** Words in s. 5(6) repealed (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 29(2)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F5** Words in s. 5(6) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 12(c)**; S.S.I. 2010/221, art. 3(2), Sch.
- F6** S. 5(6)(a)(b) substituted (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 29(2)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F7** S. 5(8) added (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 29(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)

*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

## *[<sup>F8</sup>Code of practice on deer management*

### **Textual Amendments**

**F8** S. 5A and cross-heading inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 27(1), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

## **5A Code of practice on deer management**

- (1) SNH must draw up a code of practice for the purpose of providing practical guidance in respect of deer management.
- (2) The code of practice may, in particular—
  - (a) recommend practice for sustainable deer management;
  - (b) make provision about collaboration in deer management;
  - (c) set out examples of circumstances in which SNH may [<sup>F9</sup>require a deer management plan to be prepared,] seek to secure a control agreement or make a control scheme;
  - (d) make different provision for different cases and, in particular, for different circumstances, different times of the year or different areas.
- (3) SNH must from time to time review the code of practice.
- (4) SNH may replace or revise the code of practice.
- (5) Before drawing up, replacing or revising the code, SNH must consult any person appearing to them to have an interest in the code.
- (6) SNH must submit a proposed code of practice (or a proposed replacement or revision) to the Scottish Ministers and, on receiving it, the Scottish Ministers may—
  - (a) approve it, with or without modifications; or
  - (b) reject it.
- (7) Where the Scottish Ministers reject a proposed code of practice (or a proposed replacement or revision) under subsection (6)(b) above they may either instruct SNH to submit a new code (or replacement or revision) or they may substitute a new code (or replacement or revision) of their own devising.
- (8) The first code of practice, and any replacement code of practice—
  - (a) must be laid before, and approved by resolution of, the Scottish Parliament; and
  - (b) comes into effect on such date after approval under paragraph (a) as is specified in the code.
- (9) Any revision to a code of practice must—
  - (a) be laid before the Scottish Parliament; and
  - (b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Parliament is dissolved or in recess).
- (10) The Scottish Parliament may, before such revision comes into effect, resolve that it is not to come into effect.

*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

- (11) The Scottish Ministers must publish a code of practice (or any replacement or revision) no later than the day before the code (or replacement or revision) is to come into effect.
- (12) SNH must—
- (a) monitor compliance with a code of practice drawn up under this section; and
  - (b) have regard to such a code in exercising its functions under this Act.]

**Textual Amendments**

**F9** Words in s. 5A(2)(c) inserted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 80(2)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

**[<sup>F10</sup>5B Review of compliance with code of practice on deer management**

- (1) SNH must, before the expiry of the period mentioned in subsection (4), carry out a review into the extent to which the code of practice on deer management—
- (a) is being complied with by owners and occupiers of land, and
  - (b) is effective in promoting sustainable deer management.
- (2) SNH must, following a review under subsection (1), submit a report to the Scottish Ministers—
- (a) setting out SNH's views on the extent to which the code—
    - (i) has been complied with, and
    - (ii) has been effective in promoting sustainable deer management,
  - (b) including such recommendations as SNH consider appropriate.
- (3) The Scottish Ministers must lay before the Scottish Parliament a report submitted to them under subsection (2).
- (4) The period referred to in subsection (1) is—
- (a) the period of 3 years beginning with the day on which section 79 of the Land Reform (Scotland) Act 2016 comes into force,
  - (b) each subsequent period of 3 years beginning with the day on which the Scottish Ministers lay, under subsection (3), the report submitted to them under subsection (2).]

**Textual Amendments**

**F10** S. 5B inserted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 79(2)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

*[<sup>F11</sup>Deer management plans, control agreements and control schemes]*

**Textual Amendments**

**F11** S. 6 cross-heading substituted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 80(3)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

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## 6 Control areas.

In this Act the area to which a control agreement or a control scheme relates is, in relation to that agreement or, as the case may be, scheme, referred to as the “control area”.

### [<sup>F12</sup>6A Deer management plans

- (1) If SNH, having had regard to the code of practice on deer management, is satisfied that both Conditions A and B are met, it may give notice to such owners and occupiers of land as it considers to be substantially interested requiring them—
  - (a) to prepare a plan (a “deer management plan”) setting out—
    - (i) the measures that those owners and occupiers consider should be taken,
    - (ii) the time limit for taking those measures,
    - (iii) who is to take those measures, and
    - (iv) any other matters which appear to SNH to be necessary, and
  - (b) to submit the deer management plan to SNH for its approval.
- (2) Condition A is met if on any land—
  - (a) deer or steps taken or not taken for the purposes of deer management have caused, are causing, or are likely to cause—
    - (i) damage to woodland, to agricultural production, including any crops or foodstuffs, to the welfare of deer or, whether directly or indirectly, to the natural heritage generally,
    - (ii) damage to public interests of a social, economic or environmental nature, or
    - (iii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise, or
  - (b) deer have become a danger or a potential danger to public safety.
- (3) Condition B is met if measures require to be taken in relation to the management of deer—
  - (a) for the prevention of further such damage or injury,
  - (b) for the remedying of such damage, or
  - (c) for the prevention of such danger or potential danger.
- (4) In subsection (2)(a)(i), “the natural heritage” has the same meaning as in section 7(2).
- (5) A deer management plan is to be submitted to SNH no later than—
  - (a) 12 months after the date on which SNH gives notice under subsection (1), or
  - (b) such later date as SNH may specify.
- (6) SNH may approve a deer management plan (with or without modification) or reject it.
- (7) Before approving a deer management plan with modifications, SNH must consult the owners and occupiers of land who submitted the plan on the proposed modifications.
- (8) A deer management plan may be amended until SNH decides to approve or reject it. ]

*Status: Point in time view as at 01/04/2017.*

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### Textual Amendments

**F12** S. 6A inserted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), ss. 80(4), 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

## 7 Control agreements.

- (1) Subject to the following provisions of this section, where [<sup>F1</sup>SNH][<sup>F13</sup>, having had regard to the code of practice on deer management,][<sup>F14</sup>is] satisfied that, on any land, <sup>F15</sup>...—
- (a) [<sup>F16</sup>deer or steps taken or not taken for the purposes of deer management] have caused, are causing, or are likely to cause—
- (i) damage to woodland, to agricultural production, including any crops or foodstuffs, [<sup>F17</sup>to the welfare of deer] or, whether directly or indirectly, to the natural heritage generally; <sup>F18</sup>...
  - <sup>F19</sup>(ia) damage to public interests of a social, economic or environmental nature; or]
  - (ii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or
- (b) [<sup>F20</sup>deer] have become a danger or a potential danger to public safety, and that for the prevention of further such damage, injury or, as the case may be, danger or potential danger, [<sup>F21</sup>or for the remedying of such damage, measures require to be taken in relation to the management of deer], [<sup>F22</sup>it] shall form a preliminary view, having due regard to the nature and character of the land in question, as to what measures should be taken <sup>F23</sup>...; and, for the purposes of this section and section 8 of this Act, “measures” includes the taking and removal of deer.
- (2) For the purposes of subsection (1) above “the natural heritage” includes any alteration or enhancement of the natural heritage which is taking place, or is proposed to take place, either naturally or as a result of a change of use determined by the owner or occupier of the land in question; and “damage” shall be construed accordingly.
- (3) Where it appears to [<sup>F1</sup>SNH][<sup>F24</sup>, having had regard to the code of practice on deer management,] that the circumstances obtaining in a particular area require the complete exclusion of all deer, or of all deer of any species, from that area, [<sup>F25</sup>it] may form the view that any deer within that area should be taken, removed or killed.
- (4) After [<sup>F26</sup>it has given notice to such owners and occupiers of land as it considers to be substantially interested that][<sup>F27</sup>it has] formed—
- (a) the preliminary view mentioned in subsection (1) above; or
  - (b) the view mentioned in subsection (3) above,
- [<sup>F1</sup>SNH] shall consult with [<sup>F28</sup>those owners or occupiers], to secure agreement—
- (i) that measures require to be taken;
  - (ii) as to what measures require to be taken, and within what time limit;
  - (iii) as to who is to carry out such measures; and
  - (iv) as to any other matters which appear to [<sup>F1</sup>SNH] to be necessary for the purposes of such an agreement.

<sup>F29</sup>(4A) Subsection (4) also applies where subsection (4B) applies.

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- (4B) This subsection applies where—
- (a) SNH has given notice under section 6A(1) and either—
    - (i) the date specified under section 6A(5) has passed and a deer management plan has not been submitted to SNH,
    - (ii) a deer management plan has been submitted to SNH but SNH has rejected it, or
    - (iii) a deer management plan has been approved by SNH but the measures set out in the plan have not been taken, and
  - (b) SNH is satisfied that the conditions referred to in section 6A(1) continue to be met.]
- (5) Where agreement is reached on the matters mentioned in subsection (4) above [F1SNH] shall draw up an agreement (a “control agreement”) specifying the parties to it, and any such control agreement may—
- (a) describe the control area by reference to a map and specify the approximate extent of that area;
  - (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
  - (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of [F1SNH], the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;
  - (d) specify the measures which are to be taken by the owners or occupiers for the time being of land in the control area or any of them for the purposes of the agreement; F30 ...
  - (e) set out the time limits within which the owners or occupiers are to take any such measures [F31; and]
  - [F31(f) set out measures, or steps towards taking such measures, which the owners or occupiers are to take during each 12 month period for which the agreement has effect,]
- and [F1SNH] shall send a copy of the control agreement to all the persons who were involved in the consultation referred to in subsection (4) above.
- (6) [F1SNH] and any of the parties to a control agreement may agree at any time to vary its terms.
- [F32(7) SNH must, on at least an annual basis, review a control agreement for the purpose of assessing compliance with its provisions.]

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F13** Words in s. 7(1) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 28\(2\)\(a\)\(i\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F14** Word in s. 7(1) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 13\(a\)\(i\)](#); S.S.I. 2010/221, art. 3(2), Sch.
- F15** Word in s. 7(1) repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 28\(2\)\(a\)\(ii\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)



*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

- F16** Words in s. 7(1)(a) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(A)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F17** Words in s. 7(1)(a)(i) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(B)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F18** Word in s. 7(1)(a)(i) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(C)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F19** S. 7(1)(a)(ia) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(D)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F20** Word in s. 7(1)(b) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iv)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F21** Words in s. 7(1) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(v)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F22** Word in s. 7(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F23** Words in s. 7(1) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(vi)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F24** Words in s. 7(3) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F25** Word in s. 7(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F26** Words in s. 7(4) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F27** Words in s. 7(4) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(c)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F28** Words in s. 7(4) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F29** S. 7(4A)(4B) inserted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 80(5)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.
- F30** Word in s. 7(5)(d) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(d)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F31** S. 7(5)(f) and word inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(d)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F32** S. 7(7) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

## 8 Control schemes.

[<sup>F33</sup>(A1) This subsection applies where SNH has given notice under subsection (4) of section 7 of this Act and—

- (a) either—
- (i) SNH is satisfied that it is not possible to secure a control agreement or that a control agreement is not being carried out; or
  - (ii) 6 months have elapsed since SNH gave the notice and no agreement has been reached on the matters mentioned in that subsection; and
- (b) SNH continues to have the view that required it to consult under that subsection.

- (1) Where subsection (A1) above applies and SNH, having had regard to the code of practice on deer management, is satisfied that action is necessary for the purposes mentioned in subsection (1) or, as the case may be, subsection (3) of section 7 of this Act, it shall make a scheme (a “control scheme”) for the carrying out of such measures as it considers necessary for those purposes. ]



*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

- (2) [<sup>F34</sup>Subsections (A1) and (1) above do] not apply in relation to any control agreement proposed or entered into for the purpose of altering or enhancing the natural heritage [<sup>F35</sup>(except where a purpose of the control agreement is to remedy damage caused, directly or indirectly, by deer or by steps taken or not taken for the purposes of deer management)].
- (3) A control scheme shall—
- (a) describe the control area by reference to a map and specify the approximate extent of that area;
  - (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
  - (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of [<sup>F1</sup>SNH], the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;
  - (d) specify the measures which are to be taken by the owners or occupiers for the time being of land in the control area or any of them for the purposes of paragraphs (a) to (c) above;
  - (e) prescribe time limits within which the owners or occupiers are to take any such measures as are mentioned in paragraph (d) above;
  - (f) include any incidental, consequential or supplemental provisions that may be necessary.
- (4) A control scheme may specify different measures to be taken by different owners or occupiers of land in the control area, and may provide for the extension of any time limit prescribed therein.
- <sup>F36</sup>(5) .....
- (6) A control scheme shall require confirmation by the Secretary of State before it comes into operation; and Schedule 2 to this Act (which makes provision in relation to the making, confirmation, variation and revocation of control schemes) shall have effect.
- (7) Where any control scheme has been confirmed, every owner or occupier shall take such measures as the scheme may require of him in accordance with its provisions.
- [<sup>F37</sup>(7A) Where any control scheme has been confirmed, SNH must, on at least an annual basis, review it for the purpose of assessing compliance with its provisions. ]
- (8) Where [<sup>F1</sup>SNH][<sup>F38</sup>is] of the opinion that any owner or occupier of land has failed to comply with subsection (7) above, [<sup>F39</sup>it ] shall carry out the requirement, if [<sup>F39</sup>it ][<sup>F38</sup>is] satisfied that it is still necessary to do so; and where the carrying out of such a requirement involves the killing or taking of deer, [<sup>F1</sup>SNH] shall have power to dispose by sale or otherwise of any deer so killed or taken.

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F33** S. 8(A1)(1) substituted for s. 8(1) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 28\(3\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

*Status: Point in time view as at 01/04/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Part II. (See end of Document for details)*

- F34** Words in s. 8(2) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(3)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F35** Words in s. 8(2) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(3)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F36** S. 8(5) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F37** S. 8(7A) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(3)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F38** Word in s. 8(8) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 14(b)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F39** Word in s. 8(8) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 14(b)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.

## 9 Recovery of expenses incurred in fulfilment of control scheme.

- (1) Where any expenses incurred by [F<sup>1</sup>SNH] in the performance of [F<sup>40</sup>its] duty under section 8(8) of this Act exceed the amount of the proceeds of the sale of any deer killed or taken in pursuance of that performance, the excess shall be recoverable by [F<sup>41</sup>it] from the owner or occupier concerned.
- (2) [F<sup>1</sup>SNH] shall furnish to any owner or occupier concerned a statement showing—
- the expenses incurred in the performance of [F<sup>42</sup>its ] duty under the said section 8(8);
  - the amount received in respect of the sale of deer; and
  - the amount recoverable from any owner or occupier under this section.
- (3) Any owner or occupier who is aggrieved by a statement under subsection (2) above may, within one month of the statement having been furnished to him, appeal to the Scottish Land Court.
- (4) On an appeal under subsection (3) above, the Scottish Land Court may, if it appears to them to be equitable to do so, vary the amount recoverable from the appellant.
- (5) Subject to the approval of the Secretary of State, [F<sup>1</sup>SNH] may, in any particular case, waive [F<sup>43</sup>its ] right to any expenses recoverable under this section.

### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F40** Word in s. 9(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F41** Word in s. 9(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F42** Word in s. 9(2) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F43** Word in s. 9(5) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(b)**; S.S.I. 2010/221, art. 3(2), Sch.

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### *Emergency measures*

## **10 Emergency measures to prevent damage by deer.**

- (1) This subsection applies where [F1SNH][F44is] satisfied—
- (a) that deer—
    - (i) are causing <sup>F45</sup>... damage to woodland or to agricultural production, including any crops or foodstuffs; or
    - [F46](ia) are causing damage to their own welfare or the welfare of other deer;]
    - (ii) are causing injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or
    - (iii) constitute a danger or a potential danger to public safety;
  - (b) that none of [F47its] other powers is adequate to deal with the situation; and
  - (c) that the killing of the deer is necessary to prevent further such damage or injury or to remove the danger or potential danger.
- (2) Where subsection (1) applies and [F1SNH][F48is] satisfied that—
- (a) the deer mentioned in that subsection come from particular land; and
  - (b) any person having the right to kill deer on that land will forthwith undertake the killing of the deer so mentioned,
- [F1SNH] shall make a request in writing to that person to that effect.
- (3) Where a request under subsection (2) above has been made to a person, [F1SNH] shall not issue an authorisation under subsection (4) below unless it appears to [F49it] that he has become unable or unwilling to comply with the terms of the request.
- (4) Subject to subsection (3) above, where subsection (1) above applies [F1SNH] shall authorise in writing, subject to such conditions as may be specified in the authorisation, any person who in [F50its] opinion is competent to do so to follow and kill on such land as may be mentioned in the authorisation such deer as appear to that person to be causing the damage or injury or constituting the danger or potential danger.
- [F51(4A) For the purposes of subsections (2) and (4) above, a request or authorisation may be by electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000 (c. 7) ), which has been recorded and is consequently capable of being reproduced. ]
- [F51(4B) Any request to a person under subsection (2) above may be made by such an electronic communication only if—
- (a) the person consents in writing to the receipt of a request of the kind in question from the sender by electronic communication sent to a specified number or address, and
  - (b) the communication is sent to the number or address in question.]
- (5) Where, as mentioned in paragraph (a)(iii) of subsection (1) above, deer constitute a danger or potential danger to public safety, and, in the opinion of [F1SNH] or the person authorised by [F52it] under subsection (4) above, the killing of the deer would itself constitute a potential danger to public safety, the person so authorised by [F1SNH] shall instead take and remove the deer from the land in question by such means as are appropriate.

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- (6) An authorisation under subsection (4) above shall remain in force from the date on which it is issued for such period, not exceeding twenty eight days, as may be specified in the authorisation.
- (7) Where [<sup>F1</sup>SNH]—
- (a) [<sup>F53</sup>intends] to issue an authorisation under subsection (4) above; and
  - (b) [<sup>F54</sup>is] of the opinion that any person is likely to be on any land to be mentioned in that authorisation,
- [<sup>F55</sup>it] shall as soon as practicable give to that person such warning of [<sup>F56</sup>its] intention as [<sup>F57</sup>it considers] necessary to prevent danger to him.
- (8) [<sup>F1</sup>SNH] shall give to the owner of any land which is to be mentioned in an authorisation under subsection (4) above such notice of [<sup>F58</sup>its] intention to issue such an authorisation as may be practicable.
- (9) Without prejudice to section 16 of this Act, any notice to be served under subsection (7) or (8) above on an owner of land shall, where an agent or employee is responsible for the management or farming of the land, be duly served if it is served on the said agent or employee.
- (10) Where any deer has been killed or taken and removed from land under an authorisation granted by [<sup>F1</sup>SNH] under subsection (4) above, [<sup>F1</sup>SNH] shall have power to dispose of it by sale or otherwise.

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F44** Word in s. 10(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F45** Word in s. 10(1)(a)(i) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F46** S. 10(1)(ia) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F47** Word in s. 10(1)(b) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F48** Word in s. 10(2) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F49** Word in s. 10(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(c)**; S.S.I. 2010/221, art. 3(2), Sch.
- F50** Word in s. 10(4) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(d)**; S.S.I. 2010/221, art. 3(2), Sch.
- F51** S. 10(4A) - S. 10(4B) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(2)**
- F52** Word in s. 10(5) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(e)**; S.S.I. 2010/221, art. 3(2), Sch.
- F53** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F54** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F55** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(iii)**; S.S.I. 2010/221, art. 3(2), Sch.

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- F56** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(iv)**; S.S.I. 2010/221, art. 3(2), Sch.
- F57** Words in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(v)**; S.S.I. 2010/221, art. 3(2), Sch.
- F58** Word in s. 10(8) inserted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(g)**; S.S.I. 2010/221, art. 3(2), Sch.

## 11 Application of section 10 in relation to the natural heritage.

Section 10 of this Act shall apply in relation to the natural heritage as it applies to woodland, where [<sup>F1</sup>SNH][<sup>F59</sup>is] satisfied that deer are causing <sup>F60</sup>... damage to the natural heritage—

- (a) on enclosed land; or
- (b) on unenclosed land, but only if [<sup>F1</sup>SNH][<sup>F59</sup>is] also satisfied that the damage is being caused by reason of the presence on the land in question of a significantly higher density of deer population than is usual in all the circumstances.

### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F59** Word in s. 11 substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 17**; S.S.I. 2010/221, art. 3(2), Sch.
- F60** Word in s. 11 repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(5), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

*Control agreements, control schemes and emergency measures: supplementary provisions*

## 12 <sup>X1</sup> Power of Commission to provide services and equipment and to make certain payments.

- (1) [<sup>F1</sup>SNH] may by agreement with any owner or occupier of land assist in or undertake, whether in pursuance of a control agreement, a control scheme or otherwise—
  - (a) the taking or killing of deer; and
  - (b) the disposal of deer or their carcasses.
- (2) An agreement under subsection (1) above may make provision for the providing of equipment by [<sup>F1</sup>SNH].
- (3) An agreement under subsection (1) above shall, unless [<sup>F1</sup>SNH] with the approval of the Secretary of State otherwise [<sup>F61</sup>decides], make provision for the payment of any expenses incurred by [<sup>F1</sup>SNH] under the agreement.
- (4) [<sup>F1</sup>SNH] may make in respect of the services of any person, who is not a member of staff of [<sup>F1</sup>SNH], authorised by [<sup>F62</sup>it] under section 10 of this Act such payment as may be agreed.

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#### Editorial Information

- X1** S. 12: sidenote no longer accurate following the amendments made to this Act by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 1, [Sch. 1 paras. 5-27](#)

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F61** Word in s. 12(3) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 18\(a\)](#); S.S.I. 2010/221, art. 3(2), Sch.
- F62** Word in s. 12(4) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 18\(b\)](#); S.S.I. 2010/221, art. 3(2), Sch.

### 13 Offences in relation to Part II.

- (1) Any person who refuses or wilfully fails to comply with any requirement laid upon him by a control scheme shall be guilty of an offence.
- (2) A person who wilfully obstructs any person acting in the execution of this Part of this Act or of any authorisation issued under this Part, other than an authorisation under subsection (6) or (7) of section 5 of this Act, shall be guilty of an offence.

### 14 Limitation of criminal liability.

- (1) Subject to subsections (2) to (4) below, where a person performs an act at the request of or under the authority of [F<sup>1</sup>SNH] in pursuance of—
  - (a) a control agreement;
  - (b) a control scheme; or
  - (c) section 10 of this Act,
 he shall not by reason of that act be liable to be proceeded against under this Act.
- (2) Where the act is performed by a member of the staff of [F<sup>1</sup>SNH] in pursuance of section 10 of this Act, he shall be liable to be proceeded against if the act constitutes an offence under section 17(3) of this Act.
- (3) Where the act is performed by—
  - (a) a member of the staff of [F<sup>1</sup>SNH] in pursuance of a control agreement or control scheme; or
  - (b) any other person in pursuance of a control agreement, a control scheme or section 10 of this Act,
 he shall be liable to be proceeded against if the act constitutes an offence under either section 17(3) or section 18(1) of this Act.
- (4) In subsections (2) and (3)(a) above, “member of the staff of [F<sup>1</sup>SNH]” includes any person engaged by [F<sup>1</sup>SNH] under a contract for services.

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.



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## 15 Power to enter on land.

- (1) For the purpose of the exercise of any of the functions of [F1SNH] under section 10 of this Act, any person duly authorised in writing by [F1SNH] shall have power at all reasonable times to enter upon any land.
- (2) A person authorised in writing by [F1SNH] for the purposes mentioned in subsection (3) below shall have power at all reasonable times to enter upon any land where—
  - (a) notice has been given to the owner and to the occupier of the land that it is proposed to enter during a period specified in the notice, not exceeding one month beginning at least fourteen days after the giving of the notice; and
  - (b) the exercise of that power takes place within the period so specified.
- [F63](2A) For the purposes of subsections (1) and (2) above, an authorisation may be by electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000 (c. 7) ), which has been recorded and is consequently capable of being reproduced. ]
- (3) The purposes for which a person may be authorised by [F1SNH] are—
  - (a) the taking of a census of deer in any area in pursuance of their functions under section 1(1) of this Act;
  - (b) the determination of whether any of [F64its] functions under section 7 or 8 of this Act should be exercised;
  - (c) the exercise of any such function under the said section 7 or 8;
  - (d) the determination of how far and in what manner any requirement placed on any person by virtue of this Part of this Act has been complied with.
- (4) Any person who proposes to exercise any power of entry conferred by this section shall, if so required, produce the written document[F65, or a copy of a record of authority in terms of subsection (2A) above,] authorising him for such purpose.

### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F63** S. 15(2A) inserted (23.6.2006) by [Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), arts. 1(1), [3\(3\)\(a\)](#)
- F64** Word in s. 15(3)(b) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 19](#); S.S.I. 2010/221, art. 3(2), Sch.
- F65** Words in s. 15(4) inserted (23.6.2006) by [Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), arts. 1(1), [3\(3\)\(b\)](#)

## 16 Service of notices.

- (1) Subject to the provisions of this section, any notice for the purposes of this Act shall be in writing, and any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at his proper address or sent to him by post [F66or, where subsection (1A) below applies, sent to him at a specified number or address].
- [F67(1A) Any notice for the purposes of sections 10(7) and (8), 15(2)(a) [F68, 40(1) and 40A(1)] of this Act, may be by electronic communication (as defined in section 15(1) of



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the Electronic Communications Act 2000 (c. 7) ), which has been recorded and is consequently capable of being reproduced. ]

- [<sup>F67</sup>(1B) Any notice to which subsection (1A) above applies may be given to or served on a person by such an electronic communication only if–
- (a) the person consents in writing to the receipt of a notice of the kind in question from the sender by electronic communication sent to a specified number or address, and
  - (b) the communication is sent to the number or address in question.]
- (2) Any such notice or other document required or authorised to be served on any person for the purposes of this Act shall be duly served, if that person is an incorporated company or body, if it is served on the clerk or secretary of that company or body.
- (3) For the purposes of this section and section 7 of the <sup>M1</sup>Interpretation Act 1978, the proper address of any person on whom any such notice or document is to be served shall, in the case of the clerk or secretary of any incorporated company or body, be that of the registered or principal office of such company or body, and in any other case be the last known address of the person in question.
- (4) Where any notice or other document is to be given to or served on a person as being the person having any interest in land and it is not practicable after reasonable inquiry to ascertain his name or address, the notice or document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it) and delivering the notice or document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.
- (5) Nothing in this section shall require [<sup>F1</sup>SNH] to give written notice of [<sup>F69</sup>its] intention to issue an authorisation in pursuance of section 10 of this Act.

#### Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F66** Words in s. 16(1) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(4)(a)**
- F67** S. 16(1A) - S. 16(1B) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(4)(b)**
- F68** Words in s. 16(1A) substituted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 81(2), 130(1)** (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.
- F69** Word in s. 16(5) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 20**; S.S.I. 2010/221, art. 3(2), Sch.

#### Marginal Citations

- M1** 1978 c.30.

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