



Deer (Scotland) Act 1959 (repealed 18.11.1996)

1959 CHAPTER 40 7 and 8 Eliz 2

PART III

PREVENTION OF ILLEGAL TAKING AND KILLING OF DEER

22 Prohibition of poaching.

Subject to section thirty-three of this Act, if any person without legal right [^{F1}to take or kill deer] or without permission from a person having such right takes or wilfully kills [^{F2}or injures] deer on any land, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F3}[^{F4}level 4 on the standard scale] for each deer in respect of which the offence was committed or to imprisonment for a term not exceeding three months, or to both], and to the forfeiture of any deer illegally [^{F5}taken or] killed by him or in his possession at the time of the offence:

^{F6} . . . [^{F7}(2) Subject to section 33 of this Act, if any person without legal right to take or kill deer on any land or without permission from a person having such right removes any deer carcase from that land, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F4}level 4 on the standard scale] for each carcase in respect of which the offence was committed or to imprisonment for a term not exceeding three months or to both and to the forfeiture of any carcase illegally removed by him or in his possession at the time of the offence.]

Textual Amendments

- F1** Words in s. 22 inserted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), **Sch. 1 para. 1(18)(a)**
- F2** Words inserted by **Deer (Amendment) (Scotland) Act 1982** (c. 19), s. 6(d)
- F3** Words substituted by **Deer (Amendment) (Scotland) Act 1982** (c. 19), s. 14(1), **Sch. 1**
- F4** Words in s. 22 substituted by virtue of **Criminal Procedure (Scotland) Act 1975** (c. 21, SIF 39:1), s. 289G and (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), **Sch. 1 para. 1(18)(c)**
- F5** Words inserted by **Deer (Amendment) (Scotland) Act 1982** (c. 19), s. 14(1), **Sch. 1**
- F6** S. 22 proviso repealed (18.10.1996) by 1996 c. 44, ss. 13(1)(2), 14(2), **Sch. 1 para. 1(18)(b)**, **Sch. 2**

Status: Point in time view as at 18/10/1996.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996), Part III. (See end of Document for details)

F7 S. 22(2) added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(c\)](#)

23 Unlawful taking or killing of deer.

- (1) Subject to section thirty-three [^{F8}or 33A] of this Act, any person who takes or wilfully kills [^{F9}or injures] deer between the expiration of the first hour after sunset and the commencement of the last hour before sunrise shall be guilty of an offence.
- (2) Subject to section thirty-three of this Act, it shall be an offence [^{F10}wilfully to] kill [^{F11}or injure] deer otherwise than by shooting, and shooting for the purposes of this section means discharging a firearm, [^{F12}of a class prescribed in an order under section 23A(1) of this Act].
- [^{F13}(2A) Subject to subsection (2B) below and section 33(1) of this Act, if any person—
- (a) discharges any firearm, or discharges or projects any missile, from any [^{F14}moving vehicle] at any deer; or
 - (b) notwithstanding the provisions of [^{F15}subsection (5) below] uses any aircraft for the purpose of transporting any live deer other than in the interior of the aircraft,
- he shall be guilty of an offence.
- (2B) Nothing in subsection (2A)(b) above shall make unlawful anything done by, or under the supervision of, a veterinary surgeon or practitioner.
- (2C) In subsection (2B) above “veterinary practitioner” means a person who is for the time being registered in the supplementary register, and “veterinary surgeon” means a person who is for the time being registered in the register of veterinary surgeons.]
- (3) Any person guilty of an offence against [^{F16}subsection (1), (2) or (2A)] of this section shall be liable on summary conviction to a fine not exceeding [^{F17}[^{F18}level 4 on the standard scale] for each deer in respect of which the offence was committed] or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment [^{F19}and to the forfeiture of any deer illegally taken or killed by him or in his possession at the time of the offence].
- [^{F20}(3A) [^{F21}Subject to section 33A of this Act,]Any person who uses a vehicle to drive deer on [^{F22}any] land with the intention of taking, killing or injuring them shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F18}level 4 on the standard scale] or to imprisonment for a term not exceeding 3 months or to both.]
- (4) ^{F23}
- (5) Nothing in the provisions of this section shall be construed as prohibiting a person having a legal right to take deer on any land, or a person with permission in writing from any such person as aforesaid, from taking a deer ^{F24} . . . on that land in any manner which does not cause it unnecessary suffering.

Textual Amendments

- F8** Words in s. 23(1) inserted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), [Sch. 1 para. 1\(19\)\(a\)](#)
- F9** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(d\)](#)
- F10** Words in s. 23(2) substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), [Sch. 1 para. 1\(19\)\(b\)\(i\)](#)
- F11** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(a\)](#)
- F12** Words in s. 23(2) substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), [Sch. 1 para. 1\(19\)\(b\)\(ii\)](#)

Status: Point in time view as at 18/10/1996.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996), Part III. (See end of Document for details)

- F13** S. 23(2A)—(2C) inserted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 8(1)
- F14** Words in s. 23(2A)(a) substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(19)(c)(i)
- F15** Words in s. 23(2A)(b) substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(19)(c)(ii)
- F16** Words substituted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 8(2)
- F17** Words substituted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 14(1), Sch. 1
- F18** Words in s. 23(3)(3A) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(19)(d)(e)(iii)
- F19** Words added by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 14(1), Sch. 1
- F20** S. 23(3A) inserted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 9
- F21** Words in s. 23(3A) inserted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(19)(e)(i)
- F22** Word in s. 23(3A) substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(19)(e)(ii)
- F23** Ss. 23(4), 29 repealed by Deer (Amendment) (Scotland) Act 1982 (c. 19), Sch. 3
- F24** Word in s. 23(5) repealed (18.10.1996) by 1996 c. 44, ss. 13(1)(2), 14(2), Sch. 1 para. 1(19)(f), Sch. 2

Modifications etc. (not altering text)

- C1** S. 23(3A) amended (18.10.1996) (*temp.*) by 1996 c. 44, ss. 10(3), 14(2)

[^{F25}23A Firearm and ammunition.

- (1) The Secretary of State shall have power to make such order as he thinks fit regarding the classes of firearms, ammunition, sights and other equipment which may lawfully be used in connection with killing or taking deer, and the circumstances in which any class of firearms, ammunition, sights or other equipment may be so used.
- (2) Before making an order under subsection (1) above the Secretary of State shall consult any organisations which in his opinion represent persons likely to be interested in or affected by the order.
- (3) Any person who fails to comply with an order under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F26}level 4 on the standard scale] in relation to each deer taken or killed or to imprisonment for a term not exceeding three months, or to both.
- (4) No order shall be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (5) If any person uses any firearm or any ammunition for the purpose of wilfully injuring any deer, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F26}level 4 on the standard scale] for each deer in respect of which the offence was committed or to imprisonment for a term not exceeding three months, or to both.]

Textual Amendments

- F25** S. 23A inserted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 10(1)
- F26** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (18.10.1995) by 1996 c. 18, ss. 13(1), 14(2), Sch. 1 para. 1(20)

Status: Point in time view as at 18/10/1996.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996), Part III. (See end of Document for details)

24 Unlawful taking or killing of deer by two or more persons acting together.

If two or more persons acting together do any act which would constitute an offence against [^{F27}any of the three] last foregoing sections of this Act, every such person shall be liable—

- (a) on summary conviction to a fine not exceeding [^{F28}in respect of each deer taken or killed the statutory maximum, which in this section means the prescribed sum within the meaning of [^{F29}section 225(8) of the Criminal Procedure (Scotland) Act 1995]] or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine. . . ^{F30} or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

[^{F31}and on any conviction to the forfeiture of any deer illegally taken or killed by him or in his possession at the time of the offence].

Textual Amendments

- F27** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 10\(2\)](#)
- F28** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
- F29** Words in s. 24 substituted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), [Sch. 1 para. 1\(21\)](#)
- F30** Words repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 3](#)
- F31** Words added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)

[^{F32}25 Illegal possession of deer or firearms.

- (1) A person who is in possession of a deer or of firearms or ammunition in circumstances which make it reasonable to infer that—
 - (a) he obtained the deer by committing a relevant offence; or
 - (b) he had used the firearm or ammunition for the purpose of committing a relevant offence; or
 - (c) he knew that—
 - (i) a relevant offence had been committed in relation to the deer; or
 - (ii) the firearm or ammunition had been used for the purpose of committing a relevant offence,
 shall be guilty of an offence under this section and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a period not exceeding 3 months or both, and to forfeiture of any deer found in his possession.
- (2) It shall be a defence in proceedings for an offence under this section for the accused to show that no relevant offence had been committed, or that he had no reason to believe that such an offence had been committed.
- (3) For the purposes of this section a “relevant offence” is an offence under any of sections 21, 22, 23, 23A or 24 of this Act.
- (4) A person shall not be guilty of an offence under this section in respect of anything done in good faith, including conduct which would otherwise constitute a relevant offence in relation to any deer, where what is done is done for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.

Status: Point in time view as at 18/10/1996.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996), Part III. (See end of Document for details)

(5) It shall be lawful to convict a person charged under this section on the evidence of one witness.]

Textual Amendments

F32 Ss. 25, 25AA substituted for s. 25 (18.10.1996) by 1996 c. 44, ss. 9, 14(2)

^{F33}25A Power of court in trial in one offence to convict of another.

If, upon a trial for an offence under any of sections 21, 22, 23, 23A, 24 or 25 of this Act, or any rule of law relating to reset, the court is not satisfied that the accused is guilty of the offence charged but is guilty of another of those offences, it may acquit him of the offence charged but find him guilty of the other offence and he shall then be liable to the same punishment as for that other offence.

Textual Amendments

F33 Ss. 25, 25AA substituted for s. 25 (18.10.1996) by 1996 c. 44, ss. 9, 14(2)

Status:

Point in time view as at 18/10/1996.

Changes to legislation:

There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996), Part III.