

Managing deer for climate and nature: Consultation



January 2024

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Ministerial Foreword



Deer management has long been recognised as a vital contributor to land management, and how we manage deer has a fundamental impact on our ability to tackle climate change and biodiversity loss. The [2023 State of Nature Scotland Report](#) found that since monitoring of 407 species began in 1994 the abundance of those species has declined on average by 15% and while there have been wins with some species increasing in abundance, in the last decade alone 43% have declined. The report serves as a stark reminder that our efforts to ensure effective management of wild deer matters more now than ever before.

Achieving our ambitious targets on tree-planting, woodland regeneration and peatland restoration will have a profound impact on improving our natural environment in the years to come but we will not achieve those aims without effective deer management. That means we need to get the right balance of the right densities of wild deer in the right areas to maximise the environmental benefits they can bring as part of a healthy, functioning ecosystem.

The benefits of carefully managed wild deer populations are not just environmental though, and we want to ensure we are maximising the socioeconomic benefits deer can bring. Deer provide important employment and social opportunities to our rural communities and they form an iconic part of Scotland's landscape. Venison from wild deer provides a healthy, sustainable meat source and I want to ensure that we are championing venison and supporting deer managers to get venison into the food chain.

As with any wildlife management issue, I am conscious that there are a wide range of interests in the management of wild deer, from private deer managers who deliver 80% of deer management in Scotland to public bodies to environmental Non-Government Organisations. This consultation sets out to seek your views on our proposed changes to Scotland's systems of deer management, including in relation to a number of recommendations made by the Deer Working Group in their 2020 report on [The Management of Wild Deer in Scotland](#).

This consultation is an opportunity for you to have your say on what we are proposing and to help shape future legislation – I look forward to hearing from you.

A handwritten signature in black ink that reads "Lorna Slater". The signature is fluid and cursive.

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

Responding to this consultation

We are inviting responses to this consultation by 29 March 2024. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.gov.scot/environment-forestry/managing-deer-for-climate-and-nature-consultation>.

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 29 March 2024.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

Deer Management Consultation 2024
Wildlife Legislation Team
The Scottish Government
Area 3H-S
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using Citizen Space, you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document in either pdf or word format, submitted responses in other formats may not be accepted. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under this Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses may be made available to the public at <https://consult.gov.scot/environment-forestry/managing-deer-for-climate-and-nature-consultation>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to deerconsultation2024@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online on <https://consult.gov.scot/environment-forestry/managing-deer-for-climate-and-nature-consultation>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Introduction

This consultation is seeking views on a range of matters related to deer management. These matters are set out within the 6 themes listed below:

Theme 1: Enhancing the Natural Environment

Theme 2: Compliance

Theme 3: Wild deer Welfare

Theme 4: Changes to close seasons

Theme 5: Venison

Theme 6: Kept and Farmed Deer

You can complete all the sections in the consultation or only those sections which are of interest/relevance to you.

Overview

The purpose of our proposals is to modernise the legislation which governs deer management in Scotland and ensure it is fit for purpose in the context of the biodiversity and climate crises. Deer are one of Scotland's most iconic species, but managing them effectively has been one of the biggest challenges we have faced over the last eighty years in our work to improve Scotland's natural environment.

Achieving sustainable deer populations is fundamental to our ability to meet our climate and biodiversity goals. Herbivores, including deer, have an impact on our natural environment through trampling young habitats, overgrazing and preventing new trees from growing but it is important to understand that the impact is not simply through new damage to habitats, but that decades of herbivore impact is preventing nature recovery across some of the most nature depleted areas of Scotland.

The Deer Working Group (DWG), which was established in 2017 to review the existing statutory and non-statutory arrangements for the management of wild deer in Scotland, made ninety-nine recommendations to modernise Scotland's systems of deer management, approximately half of which are legislative in nature. The non-legislative recommendations, which touch on almost every aspect of deer management, are being taken forward by the Scottish Government's Strategic Deer Board, as a project under the Scottish Biodiversity Strategy Programme.

Our 2021 response to the DWG Report set out our commitment to implementing the legislative recommendations during this parliamentary term. We have been able to implement three of the legislative recommendations already, through secondary legislation. In June 2023 we laid two instruments to remove the close season for male deer (recommendation 8), which came into force on 21 October 2023, and to make changes to the minimum bullet weight for ammunition (recommendation 5) and permit the use of night sights (recommendation 7), which came into force on 03 November 2023.

Themes 2 to 6 of this consultation set out to seek views on the other legislative recommendations accepted by the Scottish Government. Given the broad range of recommendations, and the very technical nature of some of those, there are some sections of the consultation which seek your views on the intended outcome of the changes and not on the technical detail.

There are also a small number of recommendations in relation to which we are still considering our approach, predominately in the final section of this consultation document with regard to kept and farmed deer and venison dealers' licences.

In developing our proposals to implement the recommendations made by the DWG, however, we also give consideration to what enhancement and restoration is required to improve biodiversity and about how we manage deer to help achieve this. Scotland is one of the most nature depleted countries in the world, and our country's biodiversity has been altered by centuries of habitat loss and fragmentation, management changes, development and persecution. It has been that way for so long that simply maintaining the equilibrium is in effect maintaining already damaged land. The

Deer Working Group report, while comprehensive, was commissioned in 2017 and presented to Ministers in 2019, and since then the Scottish Government has set out ambitious targets for tree planting and peatland restoration alongside our commitment to the global 30 by 30 targets. It is in the context of this work that we are proposing a set of new powers for NatureScot, set out in Theme 1 of this consultation. The proposals set out in this section are in addition to the recommendations made by the Deer Working Group but we believe they are essential to our deer management capabilities.

Background

The DWG was established by the Scottish Government in 2017, following reports by [NatureScot in 2016](#) and the [Scottish Parliament's Environment, Climate Change and Land Reform \(ECCLR\) Committee in 2017](#).

The DWG was appointed as an independent working group to review the existing statutory and non-statutory arrangements for the management of wild deer in Scotland, taking account of the position with each of the four species of wild deer and the varying circumstances across Scotland.

The DWG's remit was to *"make recommendations for changes to ensure effective deer management that safeguards public interests and promotes the sustainable management of wild deer."*

The Terms of Reference reinforced that the DWG should *"consider the position with all species of wild deer in Scotland and the varying circumstances across Scotland in both the uplands and lowlands."*

The Government's Operating Framework for the DWG noted that the DWG had *"been established as a working group so that it can focus at a detailed level on the current statutory and non-statutory arrangement for deer management in Scotland, to make recommendations to fulfil the Group's remit."*

The report was presented to Scottish Ministers by the Group in December 2019 and published in January 2020.

The recommendations made by the Group can broadly be arranged into the following aims:

- To improve consistency in legislation and remove restrictions on where, when and how deer can be taken/killed;
- To provide a clearer vision for deer management based on public interest within the context of the climate emergency and biodiversity crisis with clearer actions to deliver these aims;
- To set clearer thresholds for acceptable impacts on public interests;
- To encourage greater use of regulation, as a means of promoting wider compliance, and more focus on individual responsibility;
- Greater equity in addressing the range of public interests impacted by deer; and
- Access to better information.

Following the publication of the DWG report the Scottish Government asked the Scottish Animal Welfare Commission (SAWC) to consider and provide advice on any welfare impacts of the DWG recommendations.

The SAWC [Report on The Management of Wild Deer in Scotland – SAWC Response to the Report of the Deer Working Group](#) ("the SAWC report") was published in February 2021. SAWC considered each of the recommendations they deemed to have a potential welfare consideration and in their report they recognised the need for deer culling in Scotland. Their response was supportive of the Deer Working Group recommendations.

The Scottish Government's, [A Fairer, Greener Scotland: Programme for Government 2021-22](#) contained the following commitment:

“We will also modernise deer management, implementing the recommendations of the Deer Management Working Group. While an iconic Scottish species, wild deer populations have been steadily increasing, and high numbers and population densities have a devastating impact on the environment. It is vital we protect tree planting, woodland regeneration and peatland restoration from further damage if we are to meet our climate change and biodiversity commitments. We will introduce a new cull return system, to ensure proportionate deer management plans, modernise existing legislation, including deer close seasons and use of specialist equipment when managing deer, and design future agricultural support schemes to encourage a reduction in grazing pressure in the uplands.”

Implementing the recommendations of the Deer Working Group is also a commitment under the [Scottish Government and Scottish Green Party: Shared Policy Programme](#) (the Bute House Agreement):

“...that the recommendations of the Deer Management Working Group will be implemented as set out in the Scottish Government’s response of March 2021...”

Theme 1: Enhancing the Natural Environment

Overview

The proposals in this theme seek to address deficiencies in the existing deer legislation, and to modernise deer management in the context of the twin climate and biodiversity crises, by taking forward the following actions from the Scottish Government's Strategic Deer Board:

Deer Management Nature Restoration Orders: Additional powers for NatureScot to facilitate deer management for the purposes of enhancing the natural environment.

Rationale: The Scottish Government believes that this additional power is proportionate and necessary to allow intervention where required to enhance the natural environment and enable the adaption of land management to achieve a more biodiverse and climate resilient Scotland.

Background

Alongside implementing the recommendations made by the Deer Working Group in 2020 the Scottish Government's Strategic Deer Board has been giving consideration to whether meeting our deer management aims requires legislative change beyond those recommendations. Powers for regulation and intervention under the Deer (Scotland) Act 1996 ("the 1996 Act") are at present limited and relate to damage intervention. While this was appropriate when the Act was introduced, the context of the biodiversity and climate crises means that regulatory intervention may also be required to enhance the natural environment to achieve a more biodiverse and climate resilient state. This goes beyond the current powers which are limited to preventing, mitigating against and remedying damage occurring to an already poor environment.

Therefore, this new legislation needs to continue the evolution of the deer legislation; to widen the ability for regulatory intervention, where the voluntary approach is failing to deliver on contemporary public interests. This approach requires a shift in balance between public and private interests. The new legislation will balance these interests in a proportionate manner. The aim in shifting this balance would be to increase protection of the public interest which includes the need to see improved habitat condition and carbon management.

Scottish Government Proposals

We are proposing a new Deer Management Nature Restoration Order (DMNRO) which will facilitate deer management for the purposes of nature restoration.

The new DMNRO would be separate and in addition to the existing intervention powers under sections 6 (control areas), 6A (deer management plans), 7 (control agreements), 8 (control schemes) and 10 (emergency measures to prevent damage by deer) of the 1996 Act. We envisage that there may be a role for these existing intervention powers as part of a DMNRO process. However, we will consider the way in which the new DMNRO interacts with the existing intervention powers and will give consideration to whether existing powers may benefit from modification to compliment the creation of the DMNRO. While many of the actions that could be required under a DMNRO, and the associated enforcement powers, are similar to those under section 7 (which deals with voluntary deer management agreements) and section 8 (which provides NatureScot with powers to compel landowners to undertake deer management where the voluntary arrangements have failed) the main difference will be that the new power is focused on helping us meet our biodiversity and climate targets, rather than identifying ongoing damage and preventing further damage. The new DMNRO will aim to identify areas where there are significant gains to be made in meeting biodiversity and climate objectives through deer management actions, often working alongside other nature restoration projects. The aim of a DMNRO will be to enable NatureScot to work with landowners and managers, setting a regulatory environment and where appropriate, providing access to financial support and advice.

Purpose of the new DMNRO

The proposed purpose of a DMNRO would be to enable all necessary deer management actions to secure restoration of nature across a specified area of land, covering one or more landholdings, to be prescribed by NatureScot under a single legally enforceable direction.

Nature restoration in this context would encompass objectives including tree planting, encouraging natural regeneration, peatland restoration, water management, natural capital enhancement. The actions could include, for example, deer culling, deer fencing, detailed habitat assessment, deer counting and cull planning. Actions prescribed under the DMNRO could qualify for financial or other support.

Identifying areas where new powers are to be used

Unlike the existing section 7 or 8 powers under the 1996 Act, use of the DMNRO would not require deer damage to be assessed against a baseline. The primary criterion for a DMNRO would be where NatureScot assessed that there are social, economic or environmental benefits to be achieved through nature restoration over a specified area and that deer management will be a key factor or one of the key factors in securing those benefits.

There would be a defined and transparent process for selecting an area for a DMNRO, including publication of assessment material, consultation with interested parties and Ministerial approval. There would also be an appeal process which we expect would mirror the appeals process if NatureScot were to intervene using existing powers, and this would be a statutory appeal to the Scottish Land Court.

A DMNRO would be in force for a specified period of time. There would be set reviews of the operation of the DMNRO during the period it was in force. The terms of the DMNRO could be adjusted in terms of its duration or geographical scope, subject to consultation and Ministerial approval.

We recognise that deer management actions are unlikely to be sufficient to achieve nature restoration objectives where there is a significant level of other herbivore grazing. Consideration of candidate areas for DMNROs will therefore need to take into account what plans are in place for dealing with other herbivore impacts.

Actions that might be required under a DMNRO

A DMNRO would apply to a defined land area within which there might be a range of deer management actions required to achieve the stated objectives of the DMNRO.

These actions would include, for example:

- reductions in deer numbers. This could be to a target density or could be specified culls over a period of time and could be in order to achieve a target density
- fencing. This could include fencing to be put in place by landholdings with high deer numbers to prevent those deer damaging restoration projects elsewhere within the DMNRO area
- specified additional work to support deer management including habitat assessments, more detailed cull plans, and cull reporting.

The proposed actions under a DMNRO would be subject to consultation by NatureScot with interested parties. NatureScot would be required to take into consideration economic, social and environmental arguments put forward by consultees, and to balance these against the overall objectives of the DMNRO before determining whether to proceed with the proposed actions.

Non-compliance

Failure to complete a required action under a DMNRO could lead to direct intervention by NatureScot or those they authorise to complete specified tasks with recourse to cost recovery from landowners.

Non-compliance with an action requirement under a DMNRO would be an offence, in a similar way as any refusal or wilful failure to comply with any requirement of a control scheme is an offence under section 13 of the 1996 Act.

Links to incentive schemes

The purpose of a DMNRO would be to enable nature restoration over a wide area. It is recognised that to achieve this land managers, in some circumstances, will need access to financial support and advice. The Scottish Government plans to put in place a financial scheme or schemes for deer management, alongside existing support for forestry and peatland restoration. If we were to proceed with this proposal, we will ensure that advice is provided on the available financial support throughout the period a DMNRO is in existence, that will include information on existing schemes and any new financial support.

Consultation Questions

Question: Do you agree that NatureScot should be able to intervene, through DMNROs, to ensure that action is taken to manage deer, where deer management has been identified as a key part of nature restoration?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposed criteria for a DMNRO that:

- They can only be ordered where there is social, economic or environmental benefits to be achieved through nature restoration, and
- additional deer management is a key factor or one of the key factors in securing that benefit?

Answer options:

- Yes
- No
- Don't know
- I don't agree with DMNROs

Question: If you answered no to the previous question, what criteria, if any, would you recommend?

Answer options:

- There should be no criteria/restrictions,
- There should be more criteria/restrictions,
- I don't agree with DMNROs
- Don't know

Please provide reasons for your answer here

[Text box]

Question: Do you agree that NatureScot should be able to require a person who is subject of a DMNRO to undertake a range of actions to achieve deer management objectives in these circumstances? Such actions could include:

- reductions in deer numbers, by setting a target density or a specified cull over a period of time
- deer fencing, e.g. requiring fencing to be put in place by landholdings with high deer numbers to prevent those deer damaging restoration projects elsewhere within the DMNRO area
- specified additional work to support deer management including habitat assessments, more detailed cull plans, and cull reporting.

Answer options:

- Yes
- No
- Don't know

Question: Do you agree that if financial incentives for deer management are created, individuals subject to DMNROs should be automatically eligible for such support?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree that non-compliance with DMNROs should be treated in the same way as non-compliance with existing control schemes ie:

- It would be an offence
- It would carry a maximum fine of £40,000 or 3 months imprisonment or both.

Answer options:

- Yes
- No
- Don't know

Question: Do you agree that NatureScot should be able to recover costs from the landowner where they are required to intervene as a result of non-compliance with DMNROs?

Answer options:

- Yes
- No
- Don't know

Question: If you do not support cost recovery, what alternative non-compliance measures, if any, would you recommend?

[Free text box]

Free text box: Please provide any further comments on the questions in this section here

Theme 2: Compulsory Powers and Compliance

Overview

The proposals in this theme seek to address issues with NatureScot's ability to gather information and to take regulatory action and intervene to carry out deer management actions where deemed necessary by taking forward the following recommendations from the DWG:

Recommendation 57: Section 40 of the Deer (Scotland) Act 1996 should be amended to enable secondary legislation to be used to add to the types of information that can be required on a statutory basis under the section.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that gathering a full range of information may improve the current understanding of wild deer populations, impacts and densities and improve abilities to monitor progress. This recommendation will allow a more flexible approach to requiring additional information on cull return forms.

Recommendation 60: Section 40A of the Deer (Scotland) Act 1996 should be amended to refer to 'taken or killed' and to enable the information required to cover a period not exceeding five years.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The Scottish Government agrees that ensuring consistency in the data gathered on culls is of importance. Amending this section to refer to 'taken or killed' will also enable NatureScot to request forward planned culls for up to 5 years, where the current arrangements are for only 1 year which will support long term planning.

Recommendation 62: Section 6A(5) of the Deer (Scotland) Act 1996 should be amended to change the period within which a Deer Management Plan is to be submitted to NatureScot, so that the period is not less than three months and not more than 12 months as NatureScot may determine, according to circumstances.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that the current arrangements in which a Deer Management Plan (DMP) must be submitted within 12 months may be too long a period in some circumstances. This amendment will allow NatureScot more flexibility in agreeing a suitable period of between 3 and 12 month based on individual circumstances.

Recommendation 63: Section 15(3)(b) of the Deer (Scotland) Act 1996 should be amended to include sections 10 and 11 of the Act, rather than just sections 7 and 8.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The current section 15(3)(b) enables NatureScot to enter land in a number of circumstances, the rationale behind this amendment was to enable NatureScot to enter land for additional purposes relating to emergency measures. When bringing forward proposals to modernise deer legislation we will ensure arrangements for NatureScot to enter land are up-to-date.

Recommendation 64: The period of notice required to enter land under section 15(2) of the Deer (Scotland) Act 1996, should be reviewed with the intention of making the period of notice shorter.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that the current period of notice, which is two weeks, may now be too long and that in circumstances where the threat of damage is substantial, NatureScot should be able to act quickly and effectively.

Recommendation 65: Section 15(3) of the Deer (Scotland) Act 1996 should be amended to include as a purpose for entering on land, carrying out an assessment of the impacts of deer in any area in pursuance of NatureScot's functions under section 1(1) of the Act.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: As with recommendation 63, the Scottish Government agrees that NatureScot should have the ability to enter land for these purposes.

Recommendation 66: Section 10(1) of the Deer (Scotland) Act 1996 should be amended to include damage, directly or indirectly, to the natural heritage and that section 11 of the Act should be repealed.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The Scottish Government agree that any opportunities to provide greater clarity and make legislation more effective are of merit. The recommendation would see natural heritage included at section 10 of the 1996 Act, bringing all emergency powers under the same section so that any use of emergency powers will be based on whether there is evidence of sufficient damage to natural heritage.

Recommendation 67: Section 10(1)(b) of the Deer (Scotland) Act 1996 should be repealed.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The Scottish Government recognises that requiring the powers under section 10 to be used only as a last resort would have been relevant at the time of its introduction, the current context of deer management requires greater flexibility and for NatureScot to utilise the tools at their disposal as appropriate.

Recommendation 68: Amend section 10 of the Deer (Scotland) Act 1996, so that the owners of land where NatureScot implements measures under section 10(4) have a liability for any net cost involved in carrying out the measures, subject to scope for NatureScot to waive any net cost in appropriate circumstances.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: As with recommendation 67, the Scottish Government agrees there would be potential benefits to such an arrangement. Further consideration is required on a potential appeals process and on setting an appropriate framework for costs.

Recommendation 72: The Deer (Scotland) Act 1996 should be amended to re-instate section 8(5), which was repealed in 2011.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: This recommendation is intended to reinstate section 8(5) of the 1996 Act which prevented a land manager from being compelled to erect a deer fence by a section 8 control order. The Scottish Government considers that deer fencing remains a useful tool in managing wild deer and that in some circumstances this may be the most appropriate course of action. However we do also understand that there is a high cost associated with deer fencing, it is rarely appropriate as a long-term fix and that there are a range of views

on its use. Compelling a land manager to erect deer fencing may not be in line with modern deer management practice. We are minded to accept this recommendation but we do also recognise that there may be limited circumstances where the use of this power may be necessary and will consider appropriate alternatives.

Background

Gathering of data and information

The DWG found that -

“the public authority responsible for safeguarding public interests from damage by deer should not only want to know what deer have been shot by owners in localities in the past year or years, but also to know the planned or expected cull levels for the following year or years in the localities thus allowing it to assess whether deer densities are being managed at appropriate levels or there is a risk of damage to public interests. Scotland remains very unusual in not requiring owners to submit their planned culls to the public authority for deer management.”

As we work to modernise deer management in Scotland, with a focus on priority habitats, we agree with the findings of the DWG that we need better data on deer management actions. This might include a range of deer and land management purposes (including the development of strategies, monitoring, reporting, responses and actions), to have a more accurate picture of the nature, scale, extent and trends of damage impacts caused by deer in Scotland.

We also envisage that there could be many circumstances in which NatureScot would seek cull plans for up to five years in the future. For example, where there are multi-year nature restoration projects planned, we expect that surrounding land managers would be expected to consider how their deer management actions would support that project, and ensure that there are effective deer management plans in place. In the first section of this consultation document we set out proposals for new powers for NatureScot which include powers to support landscape scale deer management, and the changes proposed below will support those powers.

Scottish Government Proposals

Recommendation 57

We are proposing to allow changes to the types of information which can be requested by NatureScot (under section 40 of the 1996 Act) to be made by secondary legislation.

This means that as we work to address climate and biodiversity concerns through our deer management efforts we could ensure that we have access to the appropriate data and information for the circumstances. The DWG make specific reference to circumstances in which NatureScot could use improved data to verify cull figures but we also envisage that we might want to gather more data on the types of deer management actions land managers are undertaking.

Recommendation 60

We are proposing to change the period of time for which NatureScot can request information on planned culls. At present NatureScot can seek information on planned culls for a period of up to 12 months in the future. We are proposing that NatureScot be able to seek information on planned culls for a period of up to 5 years in the future. This will support longer term deer management planning.

Recommendation 62

We are proposing legislative change to allow NatureScot to set a timescale for submission of Deer Management Plans (DMPs) by land managers that is between 3 and 12 months. NatureScot will take into consideration individual circumstances alongside any other relevant information, such as neighbouring priority deer restoration projects or damage concerns when setting the deadline for submission of those DMPs.

NatureScot ability to enter land

Recommendation 63 & 66 – Emergency measures to prevent damage by deer

We are proposing legislative amendment to expand NatureScot's ability to undertake emergency measures to prevent damage by deer to include damage, directly or indirectly, to the natural heritage.

At present, NatureScot can use powers under section 10 of the 1996 Act to intervene and carry out deer management where the circumstances are deemed an emergency. That section of the 1996 Act enables NatureScot to do so for a period of up to twenty-eight days if deer:

- (i) are causing... damage to woodland or to agricultural production, including any crops or foodstuffs;
- (ii) are causing damage to their own welfare or the welfare of other deer;
- (iii) are causing injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or
- (iv) constitute a danger or a potential danger to public safety.

NatureScot also need to be satisfied that there are no other powers adequate to deal with the situation and that the killing is necessary to prevent further damage or injury or to remove the danger or potential danger.

The DWG recommended that that list should be expanded to include damage to the natural heritage, which is defined as including "flora and fauna, geological and physiographical features and the natural beauty and amenity of the countryside". Throughout the 1996 Act, the natural heritage is included as a purpose for deer management action and intervention, for example prevention of damage to the natural heritage is a reason for which NatureScot can enter into voluntary control agreements under section 7 or for which deer can be culled out of season under section 5.

With regard to their recommendation that the natural heritage should be included here at section 10, the DWG went on to comment that -

"the questions in any situation involving the natural heritage should not be about the density of deer and whether it is higher than normal. The questions should be whether there is evidence of damage to the natural heritage and whether that damage is judged sufficient in terms of the value of the particular aspects of the natural heritage involved to warrant the use of s.10 powers, all factors considered."

We agree with the DWG that bringing section 10 in line with other sections of the Act which relate to NatureScot intervention would improve the deer management process, for example we envisage circumstances where NatureScot may have voluntary control agreements in place (which outline the deer management actions that land managers will take) but where some short term intervention would support delivery of those agreements.

We are also proposing a legislative amendment which will permit NatureScot to authorise someone else (for example a contractor) to enter onto land for a broader range of purposes. Under the current legislation, NatureScot can authorise someone else, such as a contractor, to enter land if it relates to NatureScot's role in either voluntary deer management control agreements or compulsory control schemes.

The DWG proposed that NatureScot should also be able to authorise someone else, such as a contractor, to enter land if it relates to emergency measures under section 10 of the 1996 Act. There have been circumstances in the last few years where NatureScot have had to use those section 10 powers to carry out deer management, and NatureScot staff have done so. We agree with the DWG that NatureScot should be able to authorise someone else to enter land for the purpose of carrying out emergency measures to prevent damage by deer.

We are not proposing that this should apply to section 11, as we are proposing that section 11 should be repealed.

Recommendation 64

We are proposing that in those circumstances where NatureScot (including someone they authorise) does have to enter land that the period of notice NatureScot has to give should be shorter.

Presently NatureScot must give two weeks' notice of their intention to enter land to carry out their deer management functions. As outlined above, the purposes for which NatureScot can enter land relate to:

- voluntary control agreements (section 7)
- compulsory control schemes (section 8)
- emergency measures (section 10)

Given the nature of the emergency measures and the urgency with which intervention can be required where the purpose is preventing damage, we agree with the DWG that NatureScot should be able to enter land more immediately. We are seeking views on how long you think that notice period should be.

Recommendation 67

We are proposing a legislative amendment which would remove restrictions on NatureScot's ability to enter onto land in order to undertake emergency measures to prevent damage by deer. The current section 10 powers can only be used as a last resort.

The DWG found that -

“the ambiguity and restriction of s.10(1)(b) should be removed by being repealed. The question with s.10 should not be whether it is the only power that is sufficient, but whether it is the most appropriate power in the circumstances.”

We agree with the recommendation made by the DWG, assessment of the most appropriate intervention is a matter for NatureScot, and where the circumstances require it we agree that NatureScot should be able to use these powers.

Recommendation 68 – Cost recovery

NatureScot can currently seek to recover costs where they carry out deer management actions using their powers at section 7 and section 8 of the 1996 Act.

While section 10 is intended for emergency interventions, we understand that those emergency circumstances may arise as a result of ineffective deer management. With that in mind and with regard to cost recovery, it is our proposal that cost recovery should be available in some circumstances for NatureScot where section 10 powers are utilised.

NatureScot would be required to give consideration to the individual circumstances, and would be able to waive the right to recover costs where appropriate.

Consultation Questions

Question: Do you agree with our proposals that would allow changes to the types of information which can be requested by NatureScot (under section 40 of the 1996 Act), to be made via secondary legislation?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals that the period of time over which NatureScot can ask for information on planned future culls should be increased from 12 months up to a period of 5 years?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals that NatureScot should be able to use emergency powers under Section 10 of the Deer (Scotland) Act 1996, which include the ability to enter land to undertake short term deer management actions for a period of up to 28 days, to tackle damage to the natural heritage?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals that where NatureScot have intervened and carried out deer management actions as a result of these emergency powers, they should be able to recover reasonable costs?

Answer options:

- Yes
- No
- Don't know

Free text box: Please provide any further comments on the proposals set out in this section here.

Theme 3: Deer welfare

Overview

The proposals in this theme seeks to address issues with the welfare of wild deer when undertaking deer management by taking forward the following recommendations from the DWG:

Recommendation 5: The use of a shotgun to kill wild deer should be made subject to authorisation by NatureScot through a new provision in the Deer (Scotland) Act 1996, that the owner or occupier of any land should be able to apply for such authorisation and that the terms of paragraph 4 of The Deer (Firearms, etc.) (Scotland) Order 1985 should be amended accordingly.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that there are limited circumstances in which a shotgun is a necessary, or appropriate, method of managing deer. By making the use of shotguns subject to authorisation NatureScot can ensure the most appropriate form of management is available to land managers whilst maintaining high standards of welfare, emergency dispatch powers would of course remain.

Recommendation 11: Firstly, that section 41(2) of the Deer (Scotland) Act 1996 should be amended or replaced so that the taking of wild deer requires to be authorised by NatureScot and secondly, that section 37(5) should be amended at the same time to require NatureScot to produce a code of practice for the taking or live capture of wild deer.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government notes that there are few circumstances in Scotland where live capture of deer occurs in comparison with national cull levels but agree that, as noted by both the DWG and the SAWC, the impact of live capture on deer welfare can be significant.

Recommendation 13: Firstly, that section 37(1A) should be repealed so that all out of season shooting authorised by NatureScot requires to be carried out by a person judged fit and competent for that purpose by NatureScot, and secondly, that section 10(4) should be amended so that an authorised person requires to be judged both fit and competent.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: We agree with the principle that all those shooting deer should be fit and competent, whether they are occupiers or landowners. This applies particularly when deer are being shot at night or out of season. There are a number of detailed considerations as to how this might be achieved.

Recommendation 15: Section 17A of the Deer (Scotland) Act 1996 should be amended at an early stage as set out in this Report, to enable appropriate secondary legislation to bring the recommended register into effect.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: This recommendation will allow the Scottish Government to enact powers to introduce a register of persons competent to shoot deer as at recommendation 14. We recognise the linkages across to recommendations on food safety and cull return information.

Background

Recommendation 5 – Use of shotguns

Use of shotguns to kill deer in Scotland is not widespread, NatureScot estimate that only a small number of deer killed are killed using a shotgun.

The DWG concluded that –

“There is no information available on the extent to which the occupiers of agricultural land or enclosed woodland are using shotguns against deer. However, the Group’s inquiries suggested that there are relatively few situations where shotguns might still be used. These situations appear to be mainly to protect specialist crops (such as berry crops and Christmas trees) from damage by roe deer in circumstances where there are few if any safe opportunities to use a rifle.”

The Scottish Animal Welfare Commission (SAWC) in their response to the Deer Working Group were clear that –

“The general expectation that shotguns should not be used to kill deer is important.”

Recommendation 11 – Capture of live deer

We also recognise that there are likely few incidences where the taking of live deer occurs, however the DWG was clear that “the live capture of wild deer is widely recognised as a high risk event for the welfare of the deer involved, yet there is a lack of official guidance from NatureScot on the topic”.

In their response, SAWC commented that -

“All forms of capture for live deer should be subject to a specific authorisation. Historically, wild deer were taken to establish parks or farms. Capture, transport and initial management can cause serious concerns for animal welfare.”

Recommendations 13 & 15 – Fit and Competent

At present activities such as night shooting and the driving of deer must be carried out by people assessed as being ‘fit and competent’ to ensure that they have sufficient knowledge and experience for the additional safety and deer welfare concerns that can arise during these activities.

In order to be considered ‘fit and competent’ a person must be able to evidence their fitness by holding a valid firearms certificate and their competence predominately through completion of a Deer Stalking Certificate (DSC) 2 or Deer Stalking Certificate 1 plus one reference. A person can also currently apply for recognition as ‘fit and competent’ on the basis of ‘following Best Practice Guidance’. Individuals must renew their inclusion on the existing register after 5 years. NatureScot provide further guidance on the process on their [website](#).

This requirement only applies to some authorised deer management activities. Those activities are:

- Shooting female deer during the period of highest welfare concern (at present that is between 1 Apr – 31 Aug)
- Shooting deer at night
- Driving deer

These are activities which require individuals to apply to NatureScot for a specific authorisation, that application process requires them to set out detail of the activity and justify their application. NatureScot then assess whether the action is appropriate and whether the applicant meets the fit and competent requirement.

The DWG recommended that –

“the Scottish Government should be making clear that it is still government policy to work towards all those who shoot deer in Scotland being required to be qualified at DSC1 level.”

In their response to the DWG, SAWC went on to say that –

“Registered persons should be required to follow the best practice guidelines and failure to do so should result in removal of the authorised status.”

Scottish Government Proposals

Recommendation 5

We are proposing a legislative amendment which will restrict the use of shotguns to shoot deer.

Some deer management related activities are currently only permitted under authorisation by NatureScot and we recognise that those using a shotgun to kill deer will most likely be doing so sporadically, where they have a small population of deer causing damage to woodland or agriculture that they are looking to address.

We are proposing that shooting deer using a shotgun should require the same evidence of fit and competent status as other activities currently permitted under authorisation.

Recommendation 11

We are proposing that the taking of live deer should be subject to authorisation by NatureScot.

While we acknowledge that live capture of deer may not be a prevalent issue, we agree that where live capture is occurring we must maintain the highest standards of animal welfare. Given the significant welfare concerns associated, we envisage that to begin with live capture will be subject to specific authorisation. This will support NatureScot in gathering information on who is undertaking live capture of deer, for what purposes and at what times of the year. An authorisation process will also provide necessary transparency and accountability, ensuring deer welfare and disease implications (of translocation), are taken fully into account.

We are proposing at this stage that the criteria will include the live capture for the purpose of research but that NatureScot will be able to authorise live capture of deer in other circumstances which they deem appropriate. Applications will be assessed on a case-by-case basis and the process kept under review by NatureScot.

SAWC recommended that a code of practice-

“could encompass all aspects of the practice, including the skills needed by practitioners. Given the current low level of activity in this area, it may not be a good use of effort in the short term for NatureScot to develop a specific code of practice until a need arises. It would be efficient to then use the proposed authorisation to work in partnership with the applicant to develop a code”.

We accept that a code of practice on live capture of wild deer would support animal welfare, but agree with SAWC that we do not think there is an urgent need for that code. We are proposing that a code of practice on live capture of deer is developed by NatureScot in collaboration with stakeholders if and when the need arises for that code. Once brought into effect, those undertaking live capture of deer would need to have regard to the code in a similar way as, for example, those carrying out night shooting of deer must comply with the relevant sections of the night shooting code of practice.

Recommendations 13 & 15 – Register of Competence

We are proposing that everyone undertaking deer management in Scotland should be registered as competent. We are proposing to introduce amendments which will make it a requirement that

everyone shooting deer unaccompanied in Scotland has the same basic level of training, akin to that of the Deer Stalking Certificate Level One.

We are proposing a new register which has a greater role in supporting deer welfare and regulation of deer management activities. This would effectively replace NatureScot's existing fit and competent system, and under this new register individuals would also be able to provide details of their competency for a range of deer management activities which are currently permitted under authorisation.

We are proposing that registration must be renewed at least once every ten years and we are considering whether renewing registration will require renewed evidence, we envisage that if so then the following options for renewing registration could be:

- Where registered persons have a valid Deer Stalking Certificate Level 2 (these require renewing every 5 years to remain valid); or
- Where registered persons have refreshed their Deer Stalking Certificate Level One within the last twelve months; or
- Where registered persons have a Deer Stalking Certificate Level One and have been undertaking regular deer management activity and can evidence this, NatureScot will assess their suitability for renewing registration.

Additional measures – Fit and Competent

We have also been giving consideration to how this new register could support activities which are currently permitted under authorisation and meet the requirement for applicants to be considered fit and competent. We are considering the option of NatureScot setting a base level of competence, for example Deer Stalking Certificate 2, and then permitting activities currently requiring specific authorisations to be granted to persons who have attained the relevant additional competencies under a general authorisation. As part of that general authorisation, individuals would be required to comply with best practice as well as any statutory codes of practice. For example this would cover current authorisations where competence assessments are made such as:

- Night shooting (section 18 of the 1996 Act)
- Driving deer (section 19 of the 1996 Act)
- Out of season shooting of female deer

And potential new authorisations such as:

- Use of shotguns (section 21 of the 1996 Act)

Example: In practice this could mean that a land manager who wishes to shoot deer at night, who has the required level of competence and is registered as fit and competent to do so, would not need to apply for authorisation from NatureScot. Instead they would provide NatureScot with evidence that they met the fit and competent standard for the activity, and would then be able to undertake night shooting. They would still have to comply with the night shooting code of practice and be subject to restrictions as to the purpose of the night shooting.

This would be a shift from the existing process where NatureScot has oversight for decisions on when and how specific deer management tools can be used to giving land managers who have demonstrated the required skills and knowledge additional decision making power.

NatureScot would be able to revoke fit and competent status for any deer management activity if there was evidence of illegal activity or if where there are concerns over non-compliance with best practice.

We are seeking your views on the role of the fit and competent register and the potential to move away from specific authorisations for the deer management activity outlined above.

Consultation Questions

Question: Do you agree with our proposals that everyone shooting deer in Scotland should meet fit and competent standards as evidenced by having achieved at least Deer Stalking Certificate Level 1?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals to establish specified competence levels for those deer management activities which currently are only permissible under authorisation by NatureScot, such as night shooting, driving deer and out of season shooting? This would mean anyone undertaking these activities must have evidenced their competence levels and registered with NatureScot but would not need to apply for a specific authorisation to undertake these activities.

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals that the requirement for an individual authorisation from NatureScot to carry out activities such as night shooting, driving deer and out of season shooting could be replaced by registration on the Fit & Competent Register where deer managers must have evidenced their competency to undertake specified activities?

Answer options:

- The Fit & Competent Register should replace individual authorisations for these activities
- There should be a Fit & Competent Register as well as individual authorisations for these activities
- There should only be individual authorisations for these activities
- Don't know

Question: Do you agree with our proposals that use of a shotgun to kill deer should be subject to stricter regulation?

Answer options:

- Use of a shotgun to shoot deer should require registration on the Fit & Competent Register
- Use of a shotgun to shoot deer should require registration on the Fit & Competent Register and an individual authorisation from NatureScot
- Use of a shotgun to shoot deer should require an individual authorisation from NatureScot
- Use of a shotgun to shoot deer should not be restricted at all
- Don't know

Question: Do you agree with our proposals that any capture of live deer should be individually authorised by NatureScot?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree that NatureScot should develop a statutory Code of Practice, which could provide guidance and minimum standards on topics such as animal welfare and disease prevention, on the live capture of deer in Scotland in collaboration with stakeholders for use in future?

Answer options:

- Yes
- No
- Don't know

Free text box: Please provide any further comments on the proposals set out in this section here.

Theme 4: Changes to close seasons

Overview

The proposal in this theme seeks to address issues with barriers to when deer can be culled by taking forward the following recommendations from the DWG:

Recommendation 8: The Deer (Close Seasons) (Scotland) Order 2011 should be replaced with a new Order in which the close season for females of each species is set to start on a date in the period 1st to 15th April (inclusive) and end on a date in the period 31st August to 15th September (inclusive), and in which no close seasons are set for males of each species.

Scottish Government Response: The Scottish Government accepts the Deer Working Group's recommendation to remove the close season for male deer and to keep the close season for female deer under review.

Rationale: The Scottish Government agrees that the close season for female deer is of vital welfare importance and that this should apply to all land, both unenclosed and enclosed. The Scottish Government also consider that a general close season, and a more restricted close season (that is a period in which female deer cannot be killed unless there is an exceptional circumstance) has significant welfare value. We will continue to keep the current dates under review and we will take further advice before considering any changes to close season in the future. We are minded to agree with the recommendation to no longer set a close season for male deer. We appreciate this is an issue on which there are strong views. However we are advised by the SAWC that this does not create specific welfare implications for male deer. We also note that land managers who do not wish to shoot male deer during what was the close season are free to continue with that practice.

Background

Changes to the Female Close Season

In Scotland deer can be taken or killed in the 'open season', providing the person doing so has the permission of the landowner on whose land the deer can be found and they act in accordance with the conditions set out in the 1996 Act and any other applicable legislation. The dates of the open season vary depending on the sex and species of deer.

At all other times of year (the 'close season') deer can only be taken or killed under authorisation from 'NatureScot'.

The DWG recommended that-

“The Deer (Close Seasons) (Scotland) Order 2011 should be replaced with a new Order in which the close season for females of each species is set to start on a date in the period 1st to 15th April (inclusive) and end on a date in the period 31st August to 15th September (inclusive), and in which no close seasons are set for males of each species.”

Changes to the dates for the male close season have already been taken forward via [the Deer \(Close Seasons\) \(Scotland\) Amendment Order 2023](#) which was laid on 21 June 2023 and came into force on 21 October 2023. During the consultation on that proposal the Minister for Green Skills, Circular Economy and Biodiversity set out her commitment to seek further views and revisit the recommendation to amend the close season for female deer.

We are therefore only seeking your views about potential changes to the close season for female deer in this section.

Following the publication of the DWG Report, the Scottish Government asked the SAWC to consider and provide advice on any welfare impacts of the DWG recommendations, including the recommended changes to close seasons.

The SAWC report commented –

“The setting of the more restricted closed season seems to be taking into account about 80% of births (mid-May to Mid-June for red deer).

And that -

“The criteria for close seasons should apply to all deer regardless of where they are situated, enclosed agricultural or forestry land should not be an exception.”

There is broad consensus that in order to manage deer populations it is necessary to primarily cull female deer, as this will have the greatest effect on population control. In response to our consultation on removing the close season for male deer stakeholders told us:

- “It is clear that shooting female deer is the solution to population control and culling male deer has less impact” – Scottish Land and Estates
- “Wild Deer Best Practice states that “a reduction cull must focus on the females” and we suggest that instead of removing the male deer close season an incentive is given to control more female deer, where appropriate.” – British Association for Shooting Conservation
- “Biologically the culling of females is the only area where population management can be achieved.” – British Deer Society
- “It is widely accepted that female deer numbers need to be reduced in order to reduce overall deer numbers in Scotland.” – Scottish Countryside Alliance

The purpose of a close season for female deer is to safeguard the welfare of dependent young, generally this dependency is defined as from birth dates to date of weaning, and this period varies across species and can be effected by environmental factors.

Our focus in considering changes to female close seasons is centred around the balance between protecting against damage and protecting deer calves. At present, around 15% of deer culled annually in Scotland are culled out of season. NatureScot’s experience of issuing out of season authorisations to prevent damage in the years following the Wildlife and Natural Environment (Scotland) Act 2011 has highlighted the first two weeks in April as a key deer management period. There is also some evidence that environmental changes as a result of climate change may be resulting in later calving, and our proposals to move the close season dates to cover 31 March to 30 September supports this.

Scottish Government Proposals

Changes to the Female Close Season

We are proposing the following changes to the close season for female deer in Scotland.

Species	Current close season	Proposed close season
Red, Fallow and Sika	16 February – 20 October	31 March – 30 September
Roe	01 April – 20 October	31 March – 30 September

By amending the close season for female deer, deer managers can maximise the time which they cull female deer outwith those dates, which would aid preventative deer management as opposed to the current system which requires consideration to be given as to the purpose of culling hinds from February to October.

However, it will still be open to land managers to determine when they will need to cull deer on their land. The proposed close season dates provide a wider period of protection than the Deer Working Group suggested, that report discussed a close season starting on a date between 1 – 15 April and ending on a date between 31 August – 15 September. Having given consideration to the evidence available to us, we are proposing that the close season runs between 31 March – 30 September, which means that land managers would not be able to routinely cull female deer in early April, when the deer might be pregnant, or early September, when there is a risk of orphaning dependent young.

Anyone wishing to take or kill female deer during the close season will be required to evidence that they meet the fit and competent standard and we are not proposing any changes to the purposes for which management of female deer can be undertaken during the close season.

Consultation Questions

Question: Do you agree that the close season for female deer of all species should be the same?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree that the close season for female deer of all species should be changed to cover the period of highest welfare risk, from 31 March to 30 September?

Answer options:

- Yes
- No
- Don't know

Question: If you do not agree with our proposals to change the season for female deer, what, if any, further actions would you recommend to support increased management of female deer?

[Free text box]

Free text box: Please provide any further comments on the questions in this section here.

Theme 5: Venison

Overview

The proposals in this theme seek to address issues with the licensing of venison dealers and the barriers faced by venison processors by taking forward the following recommendations from the DWG:

Recommendation 19: The Licensing of Venison Dealers (Prescribed Forms etc.) (Scotland) Order 1984 should be replaced by a new Order that requires clearer and more robust information about the source of any purchases or receipts of wild venison.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The Scottish Government considered the DWG's rationale alongside recent research published by Food Standards Scotland who previously recognised gaps in understanding of food related illnesses which can apply to wild deer. We recognise that the original intention of this legislation was to control poaching of wild deer. However, we are supportive of actions which will ensure increased transparency and a better understanding of venison origins.

Recommendation 20: Section 34 of the Deer (Scotland) Act 1996 should be amended to empower those with the authority under that section, to require a licensed venison dealer to submit a return summarising their throughput of wild deer carcasses during a period not exceeding three years and in a form to be described.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: The Scottish Government believes that existing food hygiene regulations, in combination with the proposed changes to the licensing of venison dealers ensures good levels of traceability. However, including additional powers to gather further information could further improve this and allow for a better understanding of the venison market.

Recommendation 21: Scottish Government should review sections 33-36 of the Deer (Scotland) Act 1996 that cover the licensing of dealing in venison, with a view to making changes in addition to the related recommendations in this Report, so that the arrangements are fit for purpose in contemporary circumstances.

Scottish Government Response: The Scottish Government accepts this recommendation in principle.

Rationale: As outlined above, we accept the rationale behind these recommendations but the complex nature of the legislation requires further discussion with stakeholders before legislative changes are made.

Background

Over 117,000 wild deer are reported culled in Scotland annually producing around 3,500 tonnes of venison. Venison provides an income from the overall management of wild deer in Scotland. However, as outlined by the DWG, we do not currently collate data on the total number of deer which go to venison dealers.

The DWG commented that:

“There is, however, no information available on the number of wild deer carcasses processed each year by venison dealers and, as discussed further below, NatureScot experienced difficulty in trying to obtain this throughput data from some of the main dealers. The most recent information on throughput is therefore from 2009.”

'Venison Dealers Licence (VDL)' means the licence required by the 1996 Act for the sale, offer or exposure for sale of venison meat. This licence is not required where venison is sold to or bought from the holder of a VDL, meaning only one party in the transaction must possess a VDL. VDLs are issued by local authorities.

The DWG also recommended that -

"The Licensing of Venison Dealers (Prescribed Forms etc.) (Scotland) Order 1984 should be replaced by a new Order that requires clearer and more robust information on the prescribed form about the source of any purchases or receipts of wild venison."

Since the publication of our response to the DWG report we have given consideration to the recommendations made by the DWG with regard to venison, and with the existing regulations under both food standards legislation and venison specific legislation. Venison, like any other meat which enters the food chain, is regulated by Food Standards Scotland.

The DWG recommends amending legislation to enable the gathering of more information on wild venison, including the use of deer carcasses and requiring venison dealers to provide up to three years of data. However, we have been considering the need for Venison Dealers Licences more generally. Venison is regulated by Food Standards Scotland in the same way as other wild meat and game products, which means it must meet acceptable standards of food safety.

We want to ensure that as we increase deer management in Scotland, we are maximising the benefits wild venison can bring through. That means that the venison market has a key role to play in underpinning the annual cull of deer required in Scotland each year, and that we want to ensure the process for. However, we are aware that in some circumstances the requirement for a VDL may act as a barrier for existing wild meat and game handlers. So although the Deer Working Group recommendations were around increasing information about venison through the Venison Dealers Licence, NatureScot have proposed that consideration should be given to removing the requirement for a VDL altogether.

Scottish Government Proposals

We are therefore proposing an amendment which would remove the requirement for Venison Dealers Licences. This would mean that venison would be regulated in the same way as those other products.

We think this would make the processing of venison more accessible for smaller, local establishments, including those that are processing other wild meat and game products at the moment but have not sought an additional venison dealers licence. This would support more venison products making their way into the food chain.

In doing so we would not proceed with recommendations 19 to 21 set out by the DWG in relation to the information which could be gathered in relation to venison and the proposed review into Venison Dealers Licensing by Food Standards Scotland.

We would like your views on the existing Venison Dealers Licence, and whether you support our proposal to remove the requirement for a VDL and allow venison to be regulated in the same manner as other wild meat and game or if you support the DWG recommendations to amend the existing VDL scheme.

Consultation Questions

Question: Do you agree that venison specific regulations should be repealed and venison should simply follow the same regulatory procedure as other wild meat and game products without the additional requirement of a Venison Dealers Licence?

Answer options:

- Yes
- No

- Don't know

Question: If no, do you agree that NatureScot should be able to gather more information from venison dealers on deer carcasses and their use? For example, this could be used to help understand if there are areas of Scotland where there are insufficient facilities for processing venison or if there are other barriers.

Answer options:

- Yes
- No
- Don't know

Free text box: Please provide any further comments on the questions in this section here.

Theme 6: Kept and farmed deer

Overview

The proposals in this theme seek to address issues with the welfare of wild, kept and farmed deer by taking forward the following recommendations from the DWG:

Recommendation 25: The Animals (Scotland) Act 1987 should be amended to establish clearly that an owner or occupier of land can shoot a stray farmed deer on that land to prevent damage by the deer, where that is the only reasonable practical means in the circumstances to detain the stray deer under the Act.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: Stray farmed deer carry a risk of transmitting disease to wild deer which could then enter the food chain, or be transmitted through wild deer populations. Shooting stray farmed deer may be the most appropriate method of protecting public health and ensuring deer welfare. We considered the SAWC findings alongside this recommendation and agree that shooting stray farmed deer may be in the best interest of wild deer populations by reducing transmission of disease.

Recommendation 27: The Scottish Government should give serious consideration to the introduction through the Animal Health and Welfare (Scotland) Act 2006, of a scheme to require an owner of deer to have a licence for the keeping of deer as private property that are not farmed deer, deer in zoos nor muntjac deer.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government recognises that licensing would ensure assessment of the circumstances in which the deer would be kept and granting the licence would identify the owner's responsibility for the deer's health and welfare.

When developing this licensing system consideration will be given to whether venison from these deer should be restricted from entering the human food chain

Recommendation 28: Either the Deer (Scotland) Act 1996 or the Wildlife and Countryside Act 1981 should be amended so that any release of captive red deer and captive roe deer into the wild requires to be authorised by NatureScot.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that captive red deer or roe deer should only be released into the wild under authorisation from NatureScot. Alongside the DWG, the SAWC draw attention to the ethical and welfare concerns of taking and releasing wild deer, particularly stress of capture and translocation which is potentially more harmful than direct shooting or humane killing. The Scottish Government agree that further regulation is required.

Background

The vast majority of deer in Scotland are free living in the wild and they are the primary focus of this consultation and our current and future deer management plans. However, there are also populations of deer in Scotland which are kept in captivity, for example farmed deer kept as livestock for the purpose of producing venison. The deer working group therefore also considered and made recommendations regarding the management of captive deer.

Farmed deer

The DWG reports that there were just over 8,000 deer on farms recorded in the 2017 agricultural census. The deer were on 97 holdings spread across the eight agricultural census regions and current farmed venison production is around 70 tonnes a year.

The report noted that the increase in farmed deer in Scotland is –

“expected to grow significantly over the next decade. This is due to the positive market for farmed venison, the current eligibility of farmed deer for farm support payments, and farmers’ concerns about the prospects for some other livestock sectors.”

This predicted increase in the number of farmed deer is reflected in the results from the [June 2023 Scottish Agricultural Census](#) which states there are now 14,890 farmed deer in Scotland.

The DWG report found that -

“...there is a continuing history of red deer escapes from deer farms.

“These deer may not always be re-captured or killed following an escape, and become what can be regarded as ‘feral red deer’ with their mixed genetic breeding.”

There are also longstanding concerns that the escapes can increase the risk of spreading diseases such as tuberculosis into wild populations, while also introducing further mixed origin genetic material. The DWG report also highlighted that -

“...There has also been a particular concern over escapes from deer farms in those parts of Scotland designated as refuges for native stock of wild red deer...”

Deer kept for purposes other than farming

As well as deer which are kept as livestock, there are also deer which are kept in captivity for other reasons for example deer kept on zoos/children’s farms, or deer enclosed on private property. Species of kept deer in Scotland include both native deer species and non-native species such as European forest reindeer, muntjac deer, and white-lipped deer.

A licence is already required to keep certain species of animal in Scotland, such as bison, camels moose or caribou under the Dangerous Wild Animals Act 1976, primarily to protect public safety. However, except for Muntjac deer, which are classified as a non-native invasive species under schedule 9 of the Wildlife and Countryside Act 1981, a licence is not required to keep other species of deer in Scotland.

The DWG report noted that -

- “There are deer in Scotland which are owned as private property, like farmed and zoo deer, but which do not conform to either of those categories of deer and which are therefore not covered by those regulatory regimes. These other deer are kept in a wide variety of circumstances and include species that occur in the wild in Scotland and other non-native deer species that have been legally acquired.”

- “...that there should be further work to identify privately owned deer in Scotland which are neither farmed deer nor deer in zoos. These other kept deer should be being kept under the terms of the Animal Health and Welfare (Scotland) Act 2006 and related legislation. However, improved information is needed to ensure more accountability over the standards of the health and welfare under which these other privately owned deer are being kept.
- “Deer are relatively large, sentient animals and the Group considers that, while attention is paid in the public interest to the welfare of farmed deer and deer in zoos, and to the welfare of wild deer in the Deer (Scotland) Act 1996, it is an anomaly that other deer can be kept as private property without more transparency and accountability.
- “Improved identification and monitoring of these other privately owned deer would also assist in the management of diseases that affect deer. There would also be benefits if these kept deer required to be tagged..”

To address all of these issues the DWG made the following recommendations:

- **Recommendation 25:** Animals (Scotland) Act 1987 should be amended to establish clearly that an owner or occupier of land can shoot a stray farmed deer on that land to prevent damage by the deer, where that is the only reasonable practical means in the circumstances to detain the stray deer under the Act.
- **Recommendation 27:** The Scottish Government should give serious consideration to the introduction through the Animal Health and Welfare (Scotland) Act 2006, of a scheme to require an owner of deer to have a licence for the keeping of deer as private property that are not farmed deer, deer in zoos nor muntjac deer.
- **Recommendation 28:** Either the Deer (Scotland) Act 1996 or the Wildlife and Countryside Act 1981 should be amended so that any release of captive red deer and captive roe deer into the wild requires to be authorised by NatureScot.

The DWG also made the following recommendations relating to the marking of farmed and kept deer.

- **Recommendation 24:** Section 43 of the Deer (Scotland) Act 1987 should be amended at the end of the definition of farmed deer in s.43(4) to include 'and be clearly marked to show they are kept as such'.
- **Recommendation 26:** There should be a legal requirement for all deer that are owned as private property and not farmed deer or deer in zoos, to be tagged to identify them as private property.

The Scottish Government accepted those proposals in principle but is still considering how best to implement them and therefore we have not included questions on these recommendations in this consultation. We will set out proposals for the marking of kept and farmed deer at a later date.

Scottish Government Proposals

We agree with conclusions of the DWG and the rationale for their recommendations on kept deer, we therefore intend to adopt recommendations 25 to 29.

We are proposing the following:

Recommendation 25: We will propose legislative change to permit landowners/land managers/managers of livestock to shoot stray farmed deer on their land in the certain prescribed circumstances, for example:

- To prevent damage to agriculture
- To prevent the spread of disease to livestock
- To prevent the spread of disease to wild deer

However, such action will only be permitted if circumstances where other approaches for example driving the deer from the land or capturing the deer would not be practicable or effective.

Recommendation 27:

We are proposing that anyone who keeps deer in Scotland (unless the deer are being kept in a zoo or as farmed livestock) should require a licence to secure the welfare of the kept deer.

The introduction of a statutory licensing scheme will set minimum standards that all licence holders must comply with and ensure that individuals who wish to keep deer are, for example:

- subject to appropriate checks before being granted a licence
- subject to periodic inspection by local authorities
- suitably experienced and/or qualified to keep deer
- accountable when licence conditions are breached or animal welfare is compromised

As is already the case for the licensing of other activities involving animals in Scotland, the conditions that would need to be complied with will be set out in legislation. The licensing authority (likely to be local authorities) would have powers to add additional conditions of licence, but only where it considers it necessary to ensure the welfare of animals kept under the licence..

It will be an offence for anyone to keep deer without a licence and the licensing authority will be able to revoke licences in the event that the licence holder fails to comply with the conditions of the licence.

Whilst not an exhaustive list, it is proposed that a future statutory licensing scheme for deer keepers would:

- Allow the licensing authority to charge a fee for the consideration of a licence application and grant of licence.
- Allow the licensing authority to vary, suspend or revoke a licence as appropriate due to the actions or conduct of a licence holder.
- Provide an appeals mechanism for applicants or licence holders aggrieved by a decision by the licensing authority.

A zoo is defined under the Zoo Licensing Act 1981 as being 'an establishment where wild animals are kept for exhibition ... to which members of the public have access, with or without charge for admission, seven or more days in any period of twelve consecutive months'.

As any zoo in Scotland displaying wild animals that are not normally domesticated in Great Britain is subject to licensing and inspection under the Zoo Licensing Act 1981, we are proposing that they will be exempt from this licensing scheme.

Likewise anyone keeping deer as livestock is already subject to regulation under the Welfare of Farmed Animals (Scotland) Regulations 2010, in addition to the Animal Health and Welfare (Scotland) Act 2006 which applies to all kept deer. We are therefore not proposing that anyone keeping deer as livestock will require to be licensed under this scheme.

Recommendation 28:

We are proposing that anyone who wishes to release captive red and roe deer into the wild should require authorisation and that:

- The authorising body should be NatureScot.
- When considering whether to grant an authorisation for the release of red and roe deer, NatureScot should have regard to a code of practice on the release of captive deer.

The Code of Practice will be developed by NatureScot in conjunction with stakeholders including landowners/managers, animal welfare organisations and conservation bodies.

Consultation Questions

Question: Do you agree with our proposals that the owner or occupier of land should be allowed to shoot stray farmed deer on that land in order to prevent damage by the deer, providing there is, by their assessment, no other reasonable or practical way to contain the deer?

Answer options:

- Yes
- No
- Don't know

Question: Do you agree with our proposals that anyone wishing to keep deer as private property (i.e. not for the purpose of farming or as an exhibit in a zoo) should require a licence to protect the welfare of those deer?

Answer options:

- Yes
- No
- Don't know

Question: If you do not support the introduction of licensing for kept deer, what further action, if any, would you recommend to protect their welfare?

Text Box

Question: Do you agree with our proposals that anyone seeking to release captive red or roe deer into the wild in Scotland should require authorisation from NatureScot, for example, deer which may have been caught and monitored for research purposes? This would also allow us to gain a better understanding of when and why people want to release captive red or roe deer into the wild.

Answer options:

- Yes
- No
- Don't know

Question: If you do not agree with our proposals that anyone releasing red or roe deer should require authorisation, what, if any, further actions would you recommend to ensure they do not cause damage to habitats, or pose a risk to wild deer populations?

Text Box: Please provide any further comments on the proposals set out in this section here



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Any enquiries regarding this publication should be sent to us at

The Scottish Government
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