



# Deer (Scotland) Act 1996

## 1996 CHAPTER 58

### PART II

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

#### *[<sup>F1</sup>Deer management plans, control agreements and control schemes]*

#### Textual Amendments

- F1** S. 6 cross-heading substituted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), ss. **80(3)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

#### **6 Control areas.**

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

#### **[<sup>F2</sup>6A Deer management plans**

- (1) If SNH, having had regard to the code of practice on deer management, is satisfied that both Conditions A and B are met, it may give notice to such owners and occupiers of land as it considers to be substantially interested requiring them—
- (a) to prepare a plan (a “deer management plan”) setting out—
    - (i) the measures that those owners and occupiers consider should be taken,
    - (ii) the time limit for taking those measures,
    - (iii) who is to take those measures, and
    - (iv) any other matters which appear to SNH to be necessary, and
  - (b) to submit the deer management plan to SNH for its approval.
- (2) Condition A is met if on any land—

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- (a) deer or steps taken or not taken for the purposes of deer management have caused, are causing, or are likely to cause—
    - (i) damage to woodland, to agricultural production, including any crops or foodstuffs, to the welfare of deer or, whether directly or indirectly, to the natural heritage generally,
    - (ii) damage to public interests of a social, economic or environmental nature, or
    - (iii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise, or
  - (b) deer have become a danger or a potential danger to public safety.
- (3) Condition B is met if measures require to be taken in relation to the management of deer—
- (a) for the prevention of further such damage or injury,
  - (b) for the remedying of such damage, or
  - (c) for the prevention of such danger or potential danger.
- (4) In subsection (2)(a)(i), “the natural heritage” has the same meaning as in section 7(2).
- (5) A deer management plan is to be submitted to SNH no later than—
- (a) 12 months after the date on which SNH gives notice under subsection (1), or
  - (b) such later date as SNH may specify.
- (6) SNH may approve a deer management plan (with or without modification) or reject it.
- (7) Before approving a deer management plan with modifications, SNH must consult the owners and occupiers of land who submitted the plan on the proposed modifications.
- (8) A deer management plan may be amended until SNH decides to approve or reject it. ]

#### Textual Amendments

**F2** S. 6A inserted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 80(4)**, 130(1) (with s. 128); [S.S.I. 2016/193](#), reg. 2(1), Sch.

## 7 Control agreements.

- (1) Subject to the following provisions of this section, where [<sup>F3</sup>SNH][<sup>F4</sup>, having had regard to the code of practice on deer management,][<sup>F5</sup>is] satisfied that, on any land, <sup>F6</sup>...—
- (a) [<sup>F7</sup>deer or steps taken or not taken for the purposes of deer management] have caused, are causing, or are likely to cause—
    - (i) damage to woodland, to agricultural production, including any crops or foodstuffs, [<sup>F8</sup>to the welfare of deer] or, whether directly or indirectly, to the natural heritage generally; <sup>F9</sup>...
    - <sup>F10</sup>(ia) damage to public interests of a social, economic or environmental nature; or]
    - (ii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or

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- (b) [F<sup>11</sup>deer] have become a danger or a potential danger to public safety, and that for the prevention of further such damage, injury or, as the case may be, danger or potential danger, [F<sup>12</sup>or for the remedying of such damage, measures require to be taken in relation to the management of deer], [F<sup>13</sup>it] shall form a preliminary view, having due regard to the nature and character of the land in question, as to what measures should be taken F<sup>14</sup>...; and, for the purposes of this section and section 8 of this Act, “measures” includes the taking and removal of deer.
- (2) For the purposes of subsection (1) above “the natural heritage” includes any alteration or enhancement of the natural heritage which is taking place, or is proposed to take place, either naturally or as a result of a change of use determined by the owner or occupier of the land in question; and “damage” shall be construed accordingly.
- (3) Where it appears to [F<sup>3</sup>SNH][F<sup>15</sup>, having had regard to the code of practice on deer management,] that the circumstances obtaining in a particular area require the complete exclusion of all deer, or of all deer of any species, from that area, [F<sup>16</sup>it] may form the view that any deer within that area should be taken, removed or killed.
- (4) After [F<sup>17</sup>it has given notice to such owners and occupiers of land as it considers to be substantially interested that][F<sup>18</sup>it has] formed—
- (a) the preliminary view mentioned in subsection (1) above; or
  - (b) the view mentioned in subsection (3) above,
- [F<sup>3</sup>SNH] shall consult with [F<sup>19</sup>those owners or occupiers], to secure agreement—
- (i) that measures require to be taken;
  - (ii) as to what measures require to be taken, and within what time limit;
  - (iii) as to who is to carry out such measures; and
  - (iv) as to any other matters which appear to [F<sup>3</sup>SNH] to be necessary for the purposes of such an agreement.
- [F<sup>20</sup>(4A) Subsection (4) also applies where subsection (4B) applies.
- (4B) This subsection applies where—
- (a) SNH has given notice under section 6A(1) and either—
    - (i) the date specified under section 6A(5) has passed and a deer management plan has not been submitted to SNH,
    - (ii) a deer management plan has been submitted to SNH but SNH has rejected it, or
    - (iii) a deer management plan has been approved by SNH but the measures set out in the plan have not been taken, and
  - (b) SNH is satisfied that the conditions referred to in section 6A(1) continue to be met.]
- (5) Where agreement is reached on the matters mentioned in subsection (4) above [F<sup>3</sup>SNH] shall draw up an agreement (a “control agreement”) specifying the parties to it, and any such control agreement may—
- (a) describe the control area by reference to a map and specify the approximate extent of that area;
  - (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
  - (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of [F<sup>3</sup>SNH], the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and

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the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;

- (d) specify the measures which are to be taken by the owners or occupiers for the time being of land in the control area or any of them for the purposes of the agreement; <sup>F21</sup> ...
- (e) set out the time limits within which the owners or occupiers are to take any such measures [<sup>F22</sup>; and]
- [<sup>F22</sup>(f) set out measures, or steps towards taking such measures, which the owners or occupiers are to take during each 12 month period for which the agreement has effect,]

and [<sup>F3</sup>SNH] shall send a copy of the control agreement to all the persons who were involved in the consultation referred to in subsection (4) above.

- (6) [<sup>F3</sup>SNH] and any of the parties to a control agreement may agree at any time to vary its terms.

[<sup>F23</sup>(7) SNH must, on at least an annual basis, review a control agreement for the purpose of assessing compliance with its provisions.]

#### Textual Amendments

- F3** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F4** Words in s. 7(1) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F5** Word in s. 7(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F6** Word in s. 7(1) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F7** Words in s. 7(1)(a) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(A)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F8** Words in s. 7(1)(a)(i) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(B)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F9** Word in s. 7(1)(a)(i) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(C)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F10** S. 7(1)(a)(ia) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iii)(D)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F11** Word in s. 7(1)(b) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(iv)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F12** Words in s. 7(1) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(v)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F13** Word in s. 7(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F14** Words in s. 7(1) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(a)(vi)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F15** Words in s. 7(3) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F16** Word in s. 7(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F17** Words in s. 7(4) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

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- F18** Words in s. 7(4) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 13(c)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F19** Words in s. 7(4) substituted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F20** S. 7(4A)(4B) inserted (28.6.2016) by Land Reform (Scotland) Act 2016 (asp 18), **ss. 80(5)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.
- F21** Word in s. 7(5)(d) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(d)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F22** S. 7(5)(f) and word inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(d)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F23** S. 7(7) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(2)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

## 8 Control schemes.

[<sup>F24</sup>(A1) This subsection applies where SNH has given notice under subsection (4) of section 7 of this Act and—

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

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

(2) [<sup>F25</sup>Subsections (A1) and (1) above do] not apply in relation to any control agreement proposed or entered into for the purpose of altering or enhancing the natural heritage [<sup>F26</sup>(except where a purpose of the control agreement is to remedy damage caused, directly or indirectly, by deer or by steps taken or not taken for the purposes of deer management)].

(3) A control scheme shall—

- (a) describe the control area by reference to a map and specify the approximate extent of that area;
- (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
- (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of [<sup>F3</sup>SNH], the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;
- (d) specify the measures which are to be taken by the owners or occupiers for the time being of land in the control area or any of them for the purposes of paragraphs (a) to (c) above;
- (e) prescribe time limits within which the owners or occupiers are to take any such measures as are mentioned in paragraph (d) above;

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- (f) include any incidental, consequential or supplemental provisions that may be necessary.
- (4) A control scheme may specify different measures to be taken by different owners or occupiers of land in the control area, and may provide for the extension of any time limit prescribed therein.
- <sup>F27</sup>(5) . . . . .
- (6) A control scheme shall require confirmation by the Secretary of State before it comes into operation; and Schedule 2 to this Act (which makes provision in relation to the making, confirmation, variation and revocation of control schemes) shall have effect.
- (7) Where any control scheme has been confirmed, every owner or occupier shall take such measures as the scheme may require of him in accordance with its provisions.
- <sup>F28</sup>(7A) Where any control scheme has been confirmed, SNH must, on at least an annual basis, review it for the purpose of assessing compliance with its provisions. ]
- (8) Where [<sup>F3</sup>SNH][<sup>F29</sup>:is] of the opinion that any owner or occupier of land has failed to comply with subsection (7) above, [<sup>F30</sup>it ] shall carry out the requirement, if [<sup>F30</sup>it ][<sup>F29</sup>:is] satisfied that it is still necessary to do so; and where the carrying out of such a requirement involves the killing or taking of deer, [<sup>F3</sup>SNH] shall have power to dispose by sale or otherwise of any deer so killed or taken.

#### Textual Amendments

- F3** Word in Act substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), Sch. 1 para. 6](#); S.S.I. 2010/221, art. 3(2), Sch.
- F24** S. 8(A1)(1) substituted for s. 8(1) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 28\(3\)\(a\), 43\(1\) \(with s. 41\(1\)\)](#); S.S.I. 2011/433, art. 2(1)(f)
- F25** Words in s. 8(2) substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 28\(3\)\(b\)\(i\), 43\(1\) \(with s. 41\(1\)\)](#); S.S.I. 2011/433, art. 2(1)(f)
- F26** Words in s. 8(2) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 28\(3\)\(b\)\(ii\), 43\(1\) \(with s. 41\(1\)\)](#); S.S.I. 2011/433, art. 2(1)(f)
- F27** S. 8(5) repealed (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 28\(3\)\(c\), 43\(1\) \(with s. 41\(1\)\)](#); S.S.I. 2011/433, art. 2(1)(f)
- F28** S. 8(7A) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 28\(3\)\(d\), 43\(1\) \(with s. 41\(1\)\)](#); S.S.I. 2011/433, art. 2(1)(f)
- F29** Word in s. 8(8) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), Sch. 1 para. 14\(b\)\(i\)](#); S.S.I. 2010/221, art. 3(2), Sch.
- F30** Word in s. 8(8) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), Sch. 1 para. 14\(b\)\(ii\)](#); S.S.I. 2010/221, art. 3(2), Sch.

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

- (1) Where any expenses incurred by [<sup>F3</sup>SNH] in the performance of [<sup>F31</sup>its] duty under section 8(8) of this Act exceed the amount of the proceeds of the sale of any deer killed or taken in pursuance of that performance, the excess shall be recoverable by [<sup>F32</sup>it] from the owner or occupier concerned.
- (2) [<sup>F3</sup>SNH] shall furnish to any owner or occupier concerned a statement showing—
- (a) the expenses incurred in the performance of [<sup>F33</sup>its ] duty under the said section 8(8);

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- (b) the amount received in respect of the sale of deer; and
  - (c) the amount recoverable from any owner or occupier under this section.
- (3) Any owner or occupier who is aggrieved by a statement under subsection (2) above may, within one month of the statement having been furnished to him, appeal to the Scottish Land Court.
- (4) On an appeal under subsection (3) above, the Scottish Land Court may, if it appears to them to be equitable to do so, vary the amount recoverable from the appellant.
- (5) Subject to the approval of the Secretary of State, [F<sup>3</sup>SNH] may, in any particular case, waive [F<sup>34</sup>its ] right to any expenses recoverable under this section.

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#### Textual Amendments

- F3** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F31** Word in s. 9(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F32** Word in s. 9(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F33** Word in s. 9(2) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F34** Word in s. 9(5) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 15(b)**; S.S.I. 2010/221, art. 3(2), Sch.

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