



# Deer (Scotland) Act 1996

## 1996 CHAPTER 58

### PART IV

#### ENFORCEMENT, LICENSING OF VENISON DEALING AND MISCELLANEOUS PROVISIONS

#### *Further powers of <sup>F1</sup>SNH*

##### Textual Amendments

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

#### **37 Restrictions on granting of certain authorisations.**

- (1) <sup>F2</sup>Except as mentioned in subsection (1A) below, <sup>F1</sup>SNH shall not grant an authorisation under any of sections 5(6) or (7), 18(2) or 19(2) of this Act (in subsections (2) to (5) below referred to as an “authorisation”) unless <sup>F3</sup>it is] satisfied that the person concerned is a fit and competent person to receive an authorisation under that provision.

<sup>F4</sup>(1A) Subsection (1) above does not apply to an authorisation under section 5(6) of this Act to any of the following persons to take or kill, for the purpose of preventing any damage mentioned in section 5(6)(a), any deer found on land falling within section 26(1)(a) or (b) of this Act (“section 26 land”)—

- (a) the occupier of the section 26 land; or
  - (b) if authorised by the occupier—
    - (i) the owner of the section 26 land;
    - (ii) an employee of the owner; or
    - (iii) an employee of the occupier, or any other person normally resident on, the section 26 land.]
- (2) An authorisation shall—

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- (a) be in writing; and
- (b) specify the duration of its validity.

[<sup>F5</sup>(2A) For the purposes of subsection (2) above, an authorisation may be by electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000 (c. 7) ), which has been recorded and is consequently capable of being reproduced. ]

- (3) No authorisation shall be granted under section 18(2) or 19(2) of this Act unless a relevant code of practice has been published under subsection (5) below, and any such authorisation shall contain a condition that the person concerned shall comply with the relevant provisions of any such code.
- (4) An authorisation may contain such conditions, other than that mentioned in subsection (3) above, as [<sup>F1</sup>SNH]n [<sup>F6</sup>thinks] fit.
- (5) [<sup>F1</sup>SNH] shall prepare and publish, and from time to time revise, a code of practice for—
  - (a) night shooting; and
  - (b) the use of vehicles for the purposes of deer management, within the meaning of section 19(2) of this Act,
 to which [<sup>F7</sup>it] shall have regard when exercising [<sup>F7</sup>its] power under section 18(2) or, as the case may be, section 19(2) of this Act.

#### Textual Amendments

- F2** Words in s. 37(1) inserted (1.4.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 29(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F3** Words in s. 37(1) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 1 para. 22(a)**; S.S.I. 2010/221, art. 3(2), Sch.
- F4** S. 37(1A) inserted (1.4.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 29(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F5** S. 37(2A) inserted (23.6.2006) by [Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), arts. 1(1), **3(7)**
- F6** Word in s. 37(4) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 1 para. 22(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F7** Words in s. 37(5) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 1 para. 22(c)**; S.S.I. 2010/221, art. 3(2), Sch.

#### <sup>F8</sup>38 **Limitation on requirement to obtain game licence.**

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#### Textual Amendments

- F8** S. 38 repealed (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), s. 43(1), **Sch. Pt. 2** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(e)

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### 39 Deer killed under the authority of <sup>F1</sup>[SNH].

Without prejudice to sections 8(8), 9, 10(10) and 12(1) of this Act, <sup>F1</sup>[SNH] shall have no power to dispose of deer taken or killed under <sup>F9</sup>[its] authority.

#### Textual Amendments

- F9** Word in s. 39 substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 23](#); S.S.I. 2010/221, art. 3(2), Sch.

### 40 <sup>X1</sup>Power of Commission to require return of number of deer killed.

- (1) <sup>F10</sup>[SNH] may, for the purposes of any of <sup>F10</sup>[its deer] functions, by notice served on the owner or occupier of any land require him to make a return, in such form as <sup>F1</sup>[SNH] may require, showing the number of deer of each species and of each sex which to his knowledge have been taken or killed on the land.
- (2) A notice served under subsection (1) above shall—
- be in writing;
  - specify a period, immediately preceding the date of service of the notice, for which the return must be completed.
- <sup>F11</sup>(2A) For the purposes of subsection (2) above, a notice may be by electronic communication (as defined in section 15(1) of the [Electronic Communications Act 2000 \(c. 7\)](#)), which has been recorded and is consequently capable of being reproduced.
- (2B) A notice may be served on a person by such an electronic communication only if—
- the person consents in writing to the receipt of a notice of the kind in question from the sender by electronic communication sent to a specified number or address, and
  - the communication is sent to the number or address in question.]
- (3) A period specified by virtue of subsection (2)(b) above shall not exceed five years.
- (4) Any person on whom a notice under subsection (1) above has been served who—
- fails without reasonable cause to make the required return within thirty-six days after the service of the notice; or
  - in making the return knowingly or recklessly furnishes any information which is false in a material particular,
- shall be guilty of an offence.

#### Editorial Information

- X1** S. 40: sidenote no longer accurate following the amendments made to this Act by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 1, [Sch. 1 paras. 5-27](#)

#### Textual Amendments

- F10** Words in s. 40(1) substituted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 24](#); S.S.I. 2010/221, art. 3(2), Sch.
- F11** S. 40(2A)(2B) inserted (23.6.2006) by [Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), arts. 1(1), [3\(8\)](#)

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**[<sup>F12</sup>40A Power of SNH to require return of number of deer planned to be killed**

- (1) SNH may, for the purposes of any of its deer functions, by notice served on the owner or occupier of any land require the owner or occupier to make a return, in such form as SNH may require, showing how many deer of each species and of each sex are planned to be killed on the land in the following year.
- (2) A notice served under subsection (1) must specify a period, of not more than 1 year immediately following the date of service of the notice, for which the return must be completed.
- (3) Any person on whom a notice under subsection (1) has been served who fails without reasonable cause to make the required return within 36 days after the service of the notice commits an offence.]

**Textual Amendments**

**F12** S. 40A inserted (28.6.2016) by [Land Reform \(Scotland\) Act 2016 \(asp 18\)](#), **ss. 81(4)**, 130(1) (with s. 128); S.S.I. 2016/193, reg. 2(1), Sch.

**Changes to legislation:**

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