



Deer (Scotland) Act 1996

1996 CHAPTER 58

PART II

CONSERVATION, CONTROL AND SUSTAINABLE MANAGEMENT OF DEER

Emergency measures

10 Emergency measures to prevent damage by deer.

- (1) This subsection applies where [^{F1}SNH][^{F2}is] satisfied—
- (a) that deer—
 - (i) are causing ^{F3}... damage to woodland or to agricultural production, including any crops or foodstuffs; or
 - [^{F4}(ia) are causing damage to their own welfare or the welfare of other deer;]
 - (ii) are causing injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or
 - (iii) constitute a danger or a potential danger to public safety;
 - (b) that none of [^{F5}its] other powers is adequate to deal with the situation; and
 - (c) that the killing of the deer is necessary to prevent further such damage or injury or to remove the danger or potential danger.
- (2) Where subsection (1) applies and [^{F1}SNH][^{F6}is] satisfied that—
- (a) the deer mentioned in that subsection come from particular land; and
 - (b) any person having the right to kill deer on that land will forthwith undertake the killing of the deer so mentioned,
- [^{F1}SNH] shall make a request in writing to that person to that effect.
- (3) Where a request under subsection (2) above has been made to a person, [^{F1}SNH] shall not issue an authorisation under subsection (4) below unless it appears to [^{F7}it] that he has become unable or unwilling to comply with the terms of the request.

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- (4) Subject to subsection (3) above, where subsection (1) above applies [^{F1}SNH] shall authorise in writing, subject to such conditions as may be specified in the authorisation, any person who in [^{F8}its] opinion is competent to do so to follow and kill on such land as may be mentioned in the authorisation such deer as appear to that person to be causing the damage or injury or constituting the danger or potential danger.
- [^{F9}(4A) For the purposes of subsections (2) and (4) above, a request or authorisation may be by electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000 (c. 7)), which has been recorded and is consequently capable of being reproduced.]
- [^{F9}(4B) Any request to a person under subsection (2) above may be made by such an electronic communication only if–
- (a) the person consents in writing to the receipt of a request of the kind in question from the sender by electronic communication sent to a specified number or address, and
 - (b) the communication is sent to the number or address in question.]
- (5) Where, as mentioned in paragraph (a)(iii) of subsection (1) above, deer constitute a danger or potential danger to public safety, and, in the opinion of [^{F1}SNH] or the person authorised by [^{F10}it] under subsection (4) above, the killing of the deer would itself constitute a potential danger to public safety, the person so authorised by [^{F1}SNH] shall instead take and remove the deer from the land in question by such means as are appropriate.
- (6) An authorisation under subsection (4) above shall remain in force from the date on which it is issued for such period, not exceeding twenty eight days, as may be specified in the authorisation.
- (7) Where [^{F1}SNH]—
- (a) [^{F11}intends] to issue an authorisation under subsection (4) above; and
 - (b) [^{F12}is] of the opinion that any person is likely to be on any land to be mentioned in that authorisation,
- [^{F13}it] shall as soon as practicable give to that person such warning of [^{F14}its] intention as [^{F15}it considers] necessary to prevent danger to him.
- (8) [^{F1}SNH] shall give to the owner of any land which is to be mentioned in an authorisation under subsection (4) above such notice of [^{F16}its] intention to issue such an authorisation as may be practicable.
- (9) Without prejudice to section 16 of this Act, any notice to be served under subsection (7) or (8) above on an owner of land shall, where an agent or employee is responsible for the management or farming of the land, be duly served if it is served on the said agent or employee.
- (10) Where any deer has been killed or taken and removed from land under an authorisation granted by [^{F1}SNH] under subsection (4) above, [^{F1}SNH] shall have power to dispose of it by sale or otherwise.

Textual Amendments

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

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- F2** Word in s. 10(1) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(a)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F3** Word in s. 10(1)(a)(i) repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F4** S. 10(1)(ia) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F5** Word in s. 10(1)(b) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(a)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F6** Word in s. 10(2) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(b)**; S.S.I. 2010/221, art. 3(2), Sch.
- F7** Word in s. 10(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(c)**; S.S.I. 2010/221, art. 3(2), Sch.
- F8** Word in s. 10(4) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(d)**; S.S.I. 2010/221, art. 3(2), Sch.
- F9** S. 10(4A) - S. 10(4B) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(2)**
- F10** Word in s. 10(5) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(e)**; S.S.I. 2010/221, art. 3(2), Sch.
- F11** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(i)**; S.S.I. 2010/221, art. 3(2), Sch.
- F12** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(ii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F13** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(iii)**; S.S.I. 2010/221, art. 3(2), Sch.
- F14** Word in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(iv)**; S.S.I. 2010/221, art. 3(2), Sch.
- F15** Words in s. 10(7) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(f)(v)**; S.S.I. 2010/221, art. 3(2), Sch.
- F16** Word in s. 10(8) inserted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 16(g)**; S.S.I. 2010/221, art. 3(2), Sch.

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

Section 10 of this Act shall apply in relation to the natural heritage as it applies to woodland, where [^{F1}SNH][^{F17}is] satisfied that deer are causing ^{F18}... damage to the natural heritage—

- (a) on enclosed land; or
- (b) on unenclosed land, but only if [^{F1}SNH][^{F17}is] also satisfied that the damage is being caused by reason of the presence on the land in question of a significantly higher density of deer population than is usual in all the circumstances.

Textual Amendments

- F1** Word in Act substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 6**; S.S.I. 2010/221, art. 3(2), Sch.
- F17** Word in s. 11 substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 1 para. 17**; S.S.I. 2010/221, art. 3(2), Sch.
- F18** Word in s. 11 repealed (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 28(5)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

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