



# Deer (Scotland) Act 1996

## 1996 CHAPTER 58

### PART III

#### OFFENCES IN RELATION TO DEER

##### *Exemption for certain acts*

#### **26 Right of occupier in respect of deer causing <sup>F1</sup>... damage to crops etc. on certain ground.**

- (1) <sup>F2</sup>... it shall be lawful for a person to whom this subsection applies to take or kill, and to sell or otherwise dispose of, any deer found, as the case may be, on—
- (a) arable land, improved permanent pasture (other than moorland) and land which has been regenerated so as to be able to make a significant contribution to the productivity of a holding which forms part of that agricultural land; or
  - (b) on enclosed woodland,

where the occupier has reasonable ground for believing that <sup>F3</sup>... damage will be caused to crops, pasture or human or animal foodstuffs on that agricultural land, or to that woodland, if the deer are not taken or killed.

[<sup>F4</sup>(1A) Subsection (1) above does not apply during any period fixed by order under section 5(1) of this Act in relation to the sex and species of the deer concerned.]

- (2) Subsection (1) above applies to the occupier in person and, if duly authorised in writing by the occupier for the purposes of that subsection, to any of—
- (a) the owner in person;
  - (b) the owner's employees;
  - (c) the occupier's employees, or any other person normally resident, on the land;
  - (d) any other person approved in writing by [<sup>F5</sup>SNH] as a fit and competent person for the purpose.

[<sup>F6</sup>And in relation to enclosed land (other than moorland) which is part of a common grazing, the subsection also applies to a person who for the purposes of the subsection

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*Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Section 26. (See end of Document for details)*

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is both duly authorised in writing by the grazings committee (provided the grazings committee have such reasonable ground as is mentioned in that subsection) and approved as is mentioned in paragraph (d) above.]

[<sup>F7</sup>(2A) For the purposes of subsection (2)(d) above, an approval 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) Nothing contained in any agreement between an occupier of agricultural land or enclosed woodland and the owner of that land shall prohibit any act made lawful by subsection (1) above.

- (4) Any authority given to a person under subsection (2) above shall expire—
- (a) at the end of such period as the occupier<sup>F8</sup>, or as the case may be the committee,] may specify in it;
  - (b) when a person to whom it was given under paragraphs (b) or (c) of that subsection ceases to be in the employment of the owner or, as the case may be, the occupier, or ceases to be normally resident on the land;
  - (c) when a person to whom it was given under paragraph (d) of that subsection ceases to be so approved;
  - (d) if the occupier<sup>F9</sup>, or as the case may be the committee,] revokes it.

#### Textual Amendments

- F1** Word in s. 26 title repealed (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. **29(3)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F2** Words in s. 26(1) repealed (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. **29(3)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F3** Word in s. 26(1) repealed (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. **29(3)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F4** S. 26(1A) inserted (1.4.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. **29(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3)
- F5** 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.
- F6** Words in s. 26(2) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F7** S. 26(2A) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(5)**
- F8** Words in s. 26(4)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F9** Words in s. 26(4)(d) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Section 26.