



# Deer (Scotland) Act 1959

## 1959 CHAPTER 40

An Act to further the conservation and control of red deer in Scotland; to prevent the illegal taking and killing of all species of deer in Scotland; and for purposes connected with the matters aforesaid. [14th May, 1959]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### CONSERVATION AND CONTROL OF RED DEER

#### **1 Constitution and general functions of Red Deer Commission**

- (1) There shall be constituted a commission to be called " the Red Deer Commission " (hereinafter in this Act referred to as " the Commission ") which shall have the general functions of furthering the conservation and control of red deer and of keeping under review all matters relating to red deer, and such other functions as are conferred on them by or under this Act.
- (2) The Commission shall carry out their functions in accordance with such directions of a general character as may be given by the Secretary of State.
- (3) The Commission shall consist of a chairman and twelve other members appointed by the Secretary of State, and the provisions of the next following subsection shall apply to the appointment of these members other than the chairman.
- (4) The members of the Commission so appointed shall be appointed as follows—
  - (a) two from nominees of the Nature Conservancy ;
  - (b) three from nominees of such organisations as appear to the Secretary of State to represent the interests of owners of land used for agriculture or forestry;

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- (c) two from nominees of such organisations as appear to the Secretary of State to represent the sporting interest in deer;
  - (d) three from nominees of such organisations as appear to the Secretary of State to represent the interests of farmers and crofters (and of the persons so appointed at least one shall, in the opinion of the Secretary of State, represent the interests of farmers, and at least one shall represent the interests of crofters); and
  - (e) two from nominees of such organisations as appear to the Secretary of State to represent the interests of hill sheep farmers.
- (5) For the purpose of this section the expression "crofter" has the like meaning as in the Crofters (Scotland) Act, 1955.
- (6) The provisions contained in the First Schedule to this Act shall have effect in relation to the Commission.

## **2 Appointment of panels**

- (1) The Commission may, with the approval of the Secretary of State, set up in any locality a panel consisting of five persons, being a chairman and four other members, two of whom shall, in the opinion of the Commission, be representative of the interests mentioned in heads (b) and (c), and two of the interests in heads (d) and (e), of subsection (4) of the last foregoing section, and of any such panel as aforesaid three shall be a quorum.
- (2) The Commission may refer to any such panel any matter relating to the functions of the Commission, and it shall be the duty of the panel to advise the Commission on the matter.
- (3) The Commission may delegate to a panel appointed under subsection (1) of this section the functions of the Commission under section six of this Act so far as relating to the locality of that panel, and the panel in the exercise of the functions so delegated to them shall comply with any directions given by the Commission.
- (4) In the exercise of any functions delegated to them as aforesaid, a panel shall have the like powers as the Commission in relation to that exercise.

## **3 Duty of Commission to advise Secretary of State**

- (1) It shall be the duty of the Commission to advise the Secretary of State on any such matter relating to the purposes of this Act as he may refer to them, and to bring to his attention any matter relating to red deer of which in the opinion of the Commission he ought to be apprised.
- (2) The Commission shall make an annual report to the Secretary of State on the exercise of their functions under this Act, and the Secretary of State shall lay a copy of the report before each House of Parliament, together with such comments as he may think fit to make.

## **4 Particular powers of the Commission**

The Commission shall have power—

- (a) to advise in the interests of conservation any owner of land, on the application of such owner, on questions relating to the carrying of stocks of red deer on that land;
- (b) to collaborate with any person who is conducting any inquiry or investigation into questions of practical or scientific importance relating to red deer.

## **5 Returns of numbers of deer killed**

- (1) The Commission for the purpose of any of their functions may by notice in writing served on the owner or occupier of any land require him to make a return in such form as the Commission may require showing the number of red deer of each sex which to his knowledge have been killed on the land during such period (not exceeding five years) immediately preceding the service of the notice as may be specified therein.
- (2) If any person on whom a notice under the foregoing subsection has been served—
  - (a) fails without reasonable cause to make the required return within thirty-six days after the service of the notice, or
  - (b) in making the return knowingly or recklessly furnishes any information which is false in a material particular,he shall be liable on summary conviction to a fine not exceeding twenty pounds, and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

## **6 Power of Commission to deal with marauding deer**

- (1) Subject to the following provisions of this section, where the Commission are satisfied that red deer are coming on to any agricultural land or woodland or garden ground and are causing substantial damage to crops, pasture or animal or human foodstuffs, or trees on that land, and that the killing of the deer is necessary for the prevention of further damage as aforesaid, they shall authorise in writing, subject to such conditions as may be specified in the authorisation, any person who in their opinion is competent to do so to follow and kill on any land mentioned in the authorisation such red deer as appear to that person to be causing the damage.
- (2) Where the Commission are satisfied that the deer which appear to be causing damage as aforesaid come from particular land, and that any person having the right to kill deer thereon will forthwith undertake the killing of the deer first-mentioned, the Commission shall make a request to that effect in writing to that person.
- (3) Where any such request as aforesaid has been made to a person, the Commission shall not issue an authorisation under this section unless it appears to them that he has become unable or unwilling to comply with the terms of the request.
- (4) An authorisation under this section shall remain in force from the date thereof for such period, not exceeding fourteen days, as may be specified in the authorisation.
- (5) Where the Commission intend to issue any such authorisation as aforesaid, it shall be their duty to give as soon as practicable to any person who in their opinion is likely to be on any land mentioned therein such warning of their intention as they consider necessary to prevent danger to that person.

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- (6) It shall be the duty of the Commission to give to the owner of any land which is to be mentioned in an authorisation under this section such notice of their intention to issue that authorisation as may be practicable.
- (7) Without prejudice to the general provisions of section sixteen of this Act relating to the service of notices, any notice to be served under this section on an owner of land shall, where an agent or servant is responsible for the management or the farming of the land, be duly served if served on the said agent or servant.
- (8) The Commission may make in respect of the services of any person authorised by them to follow and kill deer as aforesaid, not being one of their servants, such payment as may be agreed.

## **7 Control schemes**

- (1) Where the Commission are satisfied that red deer have caused damage to agriculture or forestry in any locality, and that for the prevention of further damage the red deer in the area in which the locality is situated should be reduced in number or exterminated, they shall determine, having due regard to the nature and character of the land in that area, what measures shall be taken for that reduction or extermination as the case may be.
- (2) Thereafter it shall be the duty of the Commission to consult with such owners or occupiers of land, being land where red deer are established, as the Commission consider to be substantially interested, to secure agreement on the carrying out of the measures which they have determined as aforesaid.
- (3) Where after such consultations the Commission are satisfied that it is not possible to secure agreement as aforesaid or that the measures agreed on are not being carried out, they shall make a scheme (hereinafter in this Act referred to as a "control scheme") for the carrying out of such measures, and any such scheme before it comes into operation shall require confirmation by the Secretary of State.
- (4) In this Act the area to which a control scheme relates as aforesaid is, in relation to that scheme, referred to as the "control area"
- (5) A control scheme shall be made and confirmed in accordance with the provisions of Parts I and III of the Second Schedule to this Act, may be varied or revoked in accordance with the provisions of Parts II and III of the said Schedule, and Part IV of that Schedule shall apply with respect to the validity of such a scheme or any variation or revocation thereof.

## **8 Contents of control schemes**

- (1) A control scheme shall—
  - (a) describe the control area by reference to a map and specify the approximate extent of that area ;
  - (b) specify whether the red deer in that area or any part thereof are to be reduced in number or exterminated;
  - (c) specify, where the red deer are to be reduced in number, the number, and if necessary in the opinion of the Commission, the sex and class, of the animals to be killed in the control area or any part thereof, and the limit on the number

- of red deer of each sex to be allowed to be established in the control area or any part thereof;
- (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 foregoing provisions of this subsection;
  - (e) prescribe time limits within which the owners or occupiers are to take any such measures as aforesaid ;
  - (f) include any incidental, consequential or supplemental provisions that may be necessary.
- (2) 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.
- (3) Nothing in the foregoing provisions of this section shall empower the Commission to impose on any owner or occupier of land a requirement to construct a fence on his land or on any part thereof against the movement of red deer, and for the purposes of this section " fence" shall include any artificial obstruction.

## **9 Liability of owners or occupiers under control schemes**

- (1) Where any control scheme has been confirmed, it shall be the duty of every owner or occupier of land to take such measures as the scheme may require of him in accordance with the provisions thereof.
- (2) Any person who refuses or wilfully fails to comply with any requirement laid upon him by a scheme shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds, and in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

## **10 Enforcement of control schemes**

If the Commission are of the opinion that any owner or occupier of land upon whom a requirement is laid by a control scheme has failed to carry out that requirement, it shall be the duty of the Commission to carry out the requirement if they are satisfied that it is still necessary so to do.

## **11 Recovery of expenses incurred under section 10**

- (1) Where any expenses incurred by the Commission in the exercise of their functions under the last foregoing section exceed the amount of the proceeds of the sale of the carcasses of any red deer killed in pursuance of that exercise, the excess shall be recoverable from the owner or occupier concerned by the Commission.
- (2) The Commission shall furnish to any owner or occupier concerned a statement showing the expenses incurred in the exercise of their functions as aforesaid, the amount received in respect of the sale of carcasses and the amount recoverable from any owner or occupier under this section; and any owner or occupier who is aggrieved by such a statement may, within one month after such a statement has been furnished to him, appeal to the Scottish Land Court who may, if it appears to them equitable so to do, vary the amount recoverable from him.

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- (3) Nothing in the foregoing provisions of this section shall preclude the Commission, with the approval of the Secretary of State, from waiving the right to recover expenses incurred as aforesaid in any particular case.
- (4) The provisions of the Small Landholders (Scotland) Acts, 1886 to 1931, with regard to the Scottish Land Court shall, with any necessary modifications, apply for the determination of any appeal under subsection (2) of this section in like manner as those provisions apply for the determination by the Court of matters referred to them under those Acts.

## **12 Power of Commission to provide services and equipment**

- (1) The Commission may by agreement with any owner or occupier of land assist in or undertake, whether in pursuance of a control scheme or otherwise, the taking or killing of red deer and the disposal of such deer or their carcasses; and the agreement may make provision for the providing of equipment by the Commission.
- (2) Any agreement in pursuance of the last foregoing subsection shall, unless the Commission with the approval of the Secretary of State otherwise decide, provide for the payment of any expenses incurred by the Commission under the agreement.

## **13 Power of Commission to dispose of carcasses**

Without prejudice to the operation of the provisions of section eleven of this Act relating to the disposal of the proceeds of the sale of carcasses, and of section twelve of this Act, the Commission shall have power to dispose by sale or otherwise of the carcasses of all deer killed under their authority.

## **14 Persons acting under this Part of this Act not required to obtain game licences**

Any person authorised or required by the Commission to kill any red deer under the provisions of this Part of this Act shall not be required to obtain for that purpose a licence to kill game.

## **15 Entry on land**

- (1) Any person duly authorised in writing by the Commission shall have power at all reasonable times to enter upon any land—
  - (a) in pursuance of any of the functions of the Commission under sections six, seven or ten of this Act;
  - (b) for the purpose of determining whether any of their functions under the said sections should be exercised;
  - (c) for the purpose of determining how far and in what manner any requirement placed on any person by virtue of this Part of this Act has been complied with.
- (2) Any person authorised as aforesaid by the Commission who proposes to exercise any power of entry conferred by this section shall, if so required, produce the written document authorising him so to do.
- (3) Admission to any land under this section shall not be demanded as of right, unless notice has been given to the owner and the occupier of the land that it is proposed to enter during a period, specified in the notice, not exceeding one month and beginning

at least fourteen days after the giving of the notice, and entry is made on the land during the period specified in the notice:

Provided that this subsection shall not apply to any person acting in pursuance of any of the functions of the Commission under section six of this Act.

## **16 Service of notices**

- (1) Subject to the provisions of this section, any notice for the purposes of this Act shall be in writing, and any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at his proper address or sent to him by post.
- (2) Any such notice or other document required or authorised to be served on any person for the purposes of this Act shall be duly served, if that person is an incorporated company or body, if it is served on the clerk or secretary of that company or body.
- (3) For the purposes of this section and section twenty-six of the Interpretation Act, 1889, the proper address of any person on whom any such notice or document is to be served shall, in the case of the clerk or secretary of any incorporated company or body, be that of the registered or principal office of such company or body, and in any other case be the last known address of the person in question.
- (4) Where any notice or other document is to be given to or served on a person as being the person having any interest in land and it is not practicable after reasonable inquiry to ascertain his name or address, the notice or document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it) and delivering the notice or document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.
- (5) Nothing in this section shall require the Commission to give written notice of their intention to issue an authorisation in pursuance of section six of this Act.

## **17 Offences in relation to execution of this Part of this Act**

A person who wilfully obstructs any person acting in the execution of this Part of this Act or of any authorisation issued thereunder shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds, and in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

## **18 Financial provisions**

- (1) The expenses of the Commission shall be defrayed by the Secretary of State, and any sums received by them shall be paid to the Secretary of State.
- (2) All expenses incurred by the Secretary of State under the provisions of this Act shall be defrayed out of moneys provided by Parliament, and any sums received by him under the provisions of the last foregoing subsection shall be paid into the Exchequer.

**19 Saving of right to compensation for damage by red deer**

Nothing in the foregoing provisions of this Act or anything done thereunder shall preclude any occupier of any land from recovering any compensation for damage caused by red deer which he would have been entitled to recover if this Act had not been passed.

**20 Interpretation of Part I**

In this Part of this Act, unless the context otherwise requires—

" agriculture " and " agricultural land " have the like meanings as in the Agriculture (Scotland) Act, 1948 ;

" functions " includes powers and duties ;

" occupier " in relation to any land includes any tenant or sub-tenant, whether in actual occupation of the land or not;

" owner " in relation to any land includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking ;

" red deer " means deer of the species *cervus elaphus*.

**PART II**

## CLOSE SEASONS

**21 Close seasons for red deer and power to make close seasons for other species**

- (1) Subject to section thirty-three of this Act, no person shall take or wilfully kill any stag, being a red deer, during the period commencing on the twenty-first day of October and ending on the thirtieth day of June or any hind, being a red deer, during the period commencing on the sixteenth day of February and ending on the twentieth day of October.
- (2) The Secretary of State may by order fix a period in each year during which any species of deer named in the order other than red deer may not be taken or wilfully killed, and he may fix a different period for males and females of the species so named.
- (3) Before making any such order as aforesaid the Secretary of State shall consult with any organisations that appear to him to represent persons likely to be affected by the order.
- (4) For the purposes of this section " red deer " means deer of the species *cervus elaphus*.
- (5) If any person contravenes the provisions of subsection (1) of this section or of any order made under subsection (2) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds, and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.
- (6) This section shall come into operation on the twenty-first day of October, nineteen hundred and sixty-two.



## PART III

### PREVENTION OF ILLEGAL TAKING AND KILLING OF DEER

#### 22 Prohibition of poaching

Subject to section thirty-three of this Act, if any person without legal right or without permission from a person having such right takes or wilfully kills deer on any land, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds, and to the forfeiture of any deer illegally killed by him or in his possession at the time of the offence:

Provided that the provisions of this subsection shall not apply to any person taking any deer lawfully killed by him.

#### 23 Unlawful taking or killing of deer

- (1) Subject to section thirty-three of this Act, any person who takes or wilfully kills deer between the expiration of the first hour after sunset and the commencement of the last hour before sunrise shall be guilty of an offence.
- (2) Subject to section thirty-three of this Act, it shall be an offence to take or wilfully kill deer otherwise than by shooting, and shooting for the purposes of this section means discharging a firearm, as defined in the Firearms Act, 1937, other than a prohibited weapon.
- (3) Any person guilty of an offence against subsections (1) or (2) of this section shall be liable on summary conviction to a fine not exceeding twenty pounds, and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.
- (4) A conviction of any offence against this Part of this Act may be treated as a previous conviction for the purposes of the last foregoing subsection.
- (5) Nothing in the provisions of this section shall be construed as prohibiting a person having a legal right to take deer on any land, or a person with permission in writing from any such person as aforesaid, from taking a deer alive on that land in any manner which does not cause it unnecessary suffering.

#### 24 Unlawful taking or killing of deer by two or more persons acting together

If two or more persons acting together do any act which would constitute an offence against either of the two last foregoing sections of this Act, every such person shall be liable—

- (a) on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, and in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

## **25 Unlawful possession of deer and firearms**

- (1) If any person is found in possession of any deer in circumstances which afford reasonable ground for suspecting that he has obtained possession of the deer as a result of his committing an offence against any of the provisions of Part II or of any order made thereunder or of sections twenty-two to twenty-four of this Act, that person may be charged with unlawful possession as aforesaid of such deer.
- (2) If any person is found in possession of any firearm or ammunition in circumstances which afford reasonable ground for suspecting that he has used the firearm or ammunition for the purpose of committing an offence against any of the provisions of sections twenty-two to twenty-four of this Act, that person may be charged with unlawful possession as aforesaid of such firearm or ammunition.
- (3) Where the court is satisfied that a person charged under either or both of the two last foregoing subsections obtained possession of the deer as a result of his committing an offence against any of the provisions of Part II or of any order made thereunder or of sections twenty-two to twenty-four of this Act, or, as the case may be, that he has used any firearm or ammunition for the purpose of committing an offence against any of the provisions of the said sections twenty-two to twenty-four, that person may be convicted of unlawful possession as aforesaid and dealt with in like manner as if he had been convicted of the said offence.
- (4) It shall be lawful to convict a person charged under this section on the evidence of one witness.

## **PART IV**

### **ENFORCEMENT AND PROCEDURE**

## **26 Attempts to commit offences**

Without prejudice to the operation of section sixty-one of the Criminal Procedure (Scotland) Act, 1887, and section two of the Summary Jurisdiction (Scotland) Act, 1954, any person who attempts to commit, or does any act preparatory to the commission of, an offence against Part II or any order made thereunder or against Part III of this Act shall be guilty of an offence against this Act and shall be punishable in like manner as for the said offence.

## **27 Powers of search and seizure**

- (1) A constable may seize any deer, firearm or ammunition, vehicle or boat liable to be forfeited in pursuance of this Act.
- (2) A sheriff or any justice of the peace, if satisfied by information on oath that there is reasonable ground to suspect any offence against section twenty-four of this Act to have been committed and that evidence of the commission of the offence is to be found on any premises or in any vehicle or boat, may grant a warrant authorising any constable at any time or times within one week from the date of such warrant to enter, if necessary by force, the said premises and every part thereof or the said vehicle or boat for the purpose of detecting the offence.

- (3) A constable authorised by any such warrant as aforesaid to search any premises or any such vehicle or boat may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle or boat as the case may be, and may seize any article found on the premises, or in the vehicle or boat, or on any such person, which he has reasonable ground for believing to be evidence of the commission of any such offence as aforesaid.
- (4) Where a constable has reasonable grounds for suspecting that an offence against section twenty-four of this Act has been committed and that evidence of the commission of the offence is to be found in any vehicle or boat, and that by reason of urgency or other good cause it is impracticable to apply for a warrant to search such vehicle or boat, the said constable may stop and search that vehicle or boat and may exercise the like power of search or seizure in relation to the vehicle or boat as might be conferred under subsection (2) of this section by the warrant of the sheriff or of a justice of the peace.
- (5) No female shall in pursuance of any search authorised by this section be searched except by a female.

## **28 Apprehension of offenders**

If any person shall be found committing any offence against the provisions of Part III or of this Part of this Act, any constable may arrest that person.

## **29 Forfeitures**

- (1) Any person who is convicted of an offence against Part II of this Act or any order made thereunder or against Part III of this Act in respect of which no provision for any forfeiture is expressly made shall be liable to the forfeiture of any deer illegally taken by him or of any deer or any firearm or ammunition in his possession at the time of the offence.
- (2) Without prejudice to the operation of the last foregoing subsection any person who is convicted on indictment of an offence against Part III of this Act shall be liable to the forfeiture of any vehicle or boat used by him to assist in the commission of the offence.
- (3) Any deer forfeited under section twenty-two of this Act, or any deer, vehicle or boat forfeited under this section shall be disposed of as the court may direct.

## **30 Disposal of deer seized under the Act**

Where any deer seized under this Part of this Act is liable to forfeiture the person by whom it is seized may sell it and the net proceeds of the sale shall be liable to forfeiture in the same manner as the deer sold:

Provided that no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this section.

## **31 Offences by bodies corporate**

- (1) When an offence against this Act or any order made thereunder which has been committed by a body corporate is proved to have been committed with the consent or

connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

- (2) In this section the expression "director" in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

## **PART V**

### **SUPPLEMENTARY**

#### **32 Interpretation of Parts III and IV**

For the purposes of Parts III and IV of this Act unless the context otherwise requires—

"ammunition" has the same meaning as in section thirty-two of the Firearms Act, 1937;

"deer" means deer of any species and includes the carcase of any deer or any part thereof;

"firearm" has the same meaning as in section thirty-two of the Firearms Act, 1937;

"land" includes land covered by water, but does not include a dwelling-house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith;

"vehicle" includes any conveyance other than a vehicle used for the purposes of a passenger transport service within the meaning of the Transport Act, 1947.

#### **33 Exemptions for certain acts**

- (1) A person shall not be guilty of any offence against this Act or any order made thereunder in respect of any act done for the prevention of suffering by an injured or diseased deer.
- (2) A person shall not be guilty of any offence against this Act, other than an offence against section twenty-three, in respect of any act done under the authority of or at the request of the Commission in pursuance of section six of this Act or in pursuance of a control scheme.
- (3) Notwithstanding the provisions of section twenty-one of this Act, or of any order made thereunder, it shall not be an offence for an occupier of agricultural land or of enclosed woodlands, or for any person authorised by him in writing in that behalf, to take or kill during a close season any deer found on any arable land, garden grounds or land laid down in permanent grass (other than moorland and unenclosed land) forming part of that land, or on such woodlands, as the case may be.
- (4) Notwithstanding the provisions of subsection (1) of section twenty-three of this Act, it shall not be an offence for an occupier of agricultural land or of enclosed woodlands to take or kill during the period specified in that subsection any deer found on any

such arable land, garden grounds or land laid down in permanent grass as aforesaid, or on such woodlands, as the case may be.

- (5) The provisions of the last two foregoing subsections shall be construed as one with the Agriculture (Scotland) Act, 1948.

### **34 Application of Act to the Crown**

This Act shall apply to land an interest in which belongs to Her Majesty in right of the Crown and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department ; but in its application to any land an interest in which belongs or is held as aforesaid this Act shall have effect subject to such modifications as may be prescribed by regulations made by the Secretary of State under this Act.

### **35 Orders, regulations, etc.**

- (1) Any order or regulations made under this Act shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of a resolution by either House of Parliament.
- (2) Any order made under this Act may be varied or revoked by a subsequent order made in the like manner.

### **36 Enactments repealed**

The enactments specified in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### **37 Short title, extent and commencement**

- (1) This Act may be cited as the Deer (Scotland) Act, 1959.
- (2) This Act, except in so far as it relates to the amendment of the House of Commons Disqualification Act, 1957, shall extend to Scotland only.
- (3) This Act, except where otherwise expressly provided, shall come into force at the expiry of one month beginning with the date of its passing.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULES

### FIRST SCHEDULE

Section 1.

#### PROVISIONS AS TO THE RED DEER COMMISSION

##### *Constitution of the Commission*

- 1 The Commission shall be a body corporate and shall have a common seal.
- 2 Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, but notwithstanding anything in such an instrument any member of the Commission may resign his office by a notice given under his hand to the Secretary of State, and a member of the Commission who ceases to hold office shall be eligible for reappointment to the Commission.
- 3 Part II of the First Schedule to the House of Commons Disqualification Act, 1957 (which specifies certain commissions, tribunals and other bodies, all members of which are disqualified under that Act), shall have effect, in its application to the House of Commons of the Parliament of the United Kingdom, as if after the entry relating to the Pig Industry Development Authority there were inserted the following entry:—  
“The Red Deer Commission”.
- 4 The Secretary of State shall pay—  
(a) to the Chairman of the Commission such remuneration and such allowances, and  
(b) to the other members of the Commission such allowances as he may with the approval of the Treasury determine.
- 5 The Commission may pay to the members of any panel appointed in pursuance of section two of this Act the like allowances as are payable by the Secretary of State to members of the Commission under the last foregoing paragraph.

##### *Meetings and Proceedings of the Commission*

- 6 The quorum of the Commission shall be five or such larger number as the Commission may from time to time determine.
- 7 The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or by any defect in the appointment of any member thereof.
- 8 If at any meeting of the Commission the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.
- 9 Subject to the foregoing provisions of this Schedule, the Commission shall have power to regulate their own procedure and that of any panel appointed by them.

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*Office, Officers and Servants*

- 10 The Commission shall have an office at which communications and notices will be received.
- 11 The Secretary of State may provide the services of such officers and servants as the Commission may require.

*Instruments executed or issued by the Commission*

- 12 The application of the seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary of the Commission.
- 13 Every document purporting to be an instrument issued by the Commission and to be sealed and attested as aforesaid or to be duly signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

SECOND SCHEDULE

Section 7.

PROVISIONS AS TO CONTROL SCHEMES

**PART I**

*Procedure for making control schemes*

- 1 Where the Commission decide to make a control scheme they shall—
- (a) serve on every owner and every occupier of land on whom the scheme proposes to impose any requirement a copy of the said scheme, together with a notice stating that any such owner or occupier may, within twenty-eight days of the service of the notice, object to the Secretary of State in such manner as may be specified in the notice to the scheme or to any provision contained therein; and
  - (b) in two successive weeks publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that a control scheme has been prepared, describing the said area, naming a place within the district where a copy of the said scheme and of the map referred to therein may be inspected at all reasonable hours, and stating that any person may, within twenty-eight days of the first publication of such notice, object to the Secretary of State in such a manner as may be specified in the notice to the said scheme or to any provision contained therein.
- 2 If no objection is duly made under the last foregoing paragraph or if all objections so made are withdrawn, the Secretary of State may confirm the control scheme either in the form submitted to him or, subject to paragraph 4 of this Schedule, with modifications.
- 3 If any objection duly made as aforesaid is not withdrawn, the Secretary of State shall, before deciding whether to confirm the control scheme, cause a public inquiry to be held, and after considering the objection and the report of the person who held

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the inquiry may confirm the scheme either in the form submitted to him or, subject to paragraph 4 of this Schedule, with modifications.

- 4 The control scheme shall not be confirmed with any modification unless either—
- (a) every person served with a copy of the scheme by virtue of paragraph 1 of this Schedule has been served with notice of the proposal to make the modification and any other person on whom the modification, if made, would impose a requirement, has been served with a notice of the proposal to make the modification along with a copy of the said scheme, and either has consented thereto or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects thereto ; or
  - (b) the modification arises from representations made at an inquiry held under paragraph 3 of this Schedule or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the scheme as aforesaid and been afforded an opportunity to appear and be heard at the inquiry.

## PART II

### *Procedure for varying or revoking control schemes*

5 On the application of the Commission, the Secretary of State may make a scheme varying a control scheme or may revoke a control scheme.

- 6 Before making any such variation or revocation the Secretary of State shall—
- (a) serve on every owner and every occupier of land on whom the control scheme has imposed any requirement or would, if varied as proposed, impose any requirement, a draft of the scheme varying the control scheme or, as the case may be, an intimation of the proposed revocation together with a notice stating that any such owner or occupier may, within twenty-eight days of the service of the draft scheme or the intimation, as the case may be, object to the Secretary of State in such a manner as may be specified in the notice to the variation or revocation of the control scheme ; and
  - (b) in two successive weeks publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that the control scheme is to be varied or revoked and that any person may, within twenty-eight days of the first publication of such notice, object in such manner as may be specified in the notice to the making of the variation or revocation, and in the case of any such variation naming a place within the district where a copy of the scheme as proposed to be varied and any map referred to therein may be inspected at all reasonable hours.

7 If no objection is duly made under the foregoing paragraph or if all objections so made are withdrawn, the Secretary of State may vary or revoke the control scheme, as the case may be.

8 If any objection duly made as aforesaid is not withdrawn, the Secretary of State shall, before deciding whether to make the variation or revocation as the case may be, cause a public inquiry to be held, and after considering the objection and the



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report of the person who held the inquiry may make the variation, either in the form of the draft or with modifications, or the revocation, as the case may be.

- 9 A variation of a control scheme shall not be made with any modification unless either—
- (a) every person served with a copy of the draft scheme by virtue of paragraph 6 of this Schedule has been served with notice of the proposal to make the modification and any other person on whom the modification, if made, would impose a requirement has been served with a notice of the proposal to make the modification along with a copy of the said draft scheme, and either has consented thereto or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects thereto ; or
  - (b) the modification arises from representations made at an inquiry held under the last foregoing paragraph or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the draft scheme as aforesaid and been afforded an opportunity to appear and be heard at the inquiry.

### **PART III**

#### *General Procedural Provisions*

- 10 Notwithstanding anything in paragraphs 3 or 8 of this Schedule, the Secretary of State may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this Schedule if he is satisfied that the objection is frivolous.
- 11 The provisions of subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relate to the holding of local inquiries) shall apply in relation to a public local inquiry held under paragraph 3 or 8 of this Schedule as they apply in relation to local inquiries held under the said section three hundred and fifty-five.

### **PART IV**

#### *Provisions as to the validity of control schemes and of variations or revocations of such schemes*

- 12 On confirming a control scheme or on varying or revoking such a scheme the Secretary of State shall forthwith—
- (a) serve on every person on whom a notice was required to be served under sub-paragraph (a) of paragraph 1 or under sub-paragraph (a) of paragraph 4 of this Schedule or, as the case may be, sub-paragraph (a) of paragraph 6 or under sub-paragraph (a) of paragraph 9 of this Schedule a notice stating that the scheme has been confirmed or, as the case may be, that a variation or revocation of such a scheme has been made ;
  - (b) publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that the scheme has been confirmed or varied or revoked, as the case may be, and

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naming a place within the district where a copy of the scheme or, as the case may be, the scheme as varied, and of any maps referred to therein, may be inspected at all reasonable hours.

- 13 If any person aggrieved by a control scheme or by any variation or revocation thereof desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six\_ weeks from the date of the first publication of the notice referred to in sub-paragraph (b) of the last foregoing paragraph, make an application for the purpose to the Court of Session, and if any such application is duly made the Court, if satisfied that the scheme or any variation or revocation thereof is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act, may quash the scheme or any variation or revocation thereof, either generally or in so far as it affects the applicant; but except as aforesaid the scheme or any variation or revocation thereof shall not at any time be questioned in any proceedings whatsoever.

## THIRD SCHEDULE

Section 36.

## ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
<a href="#">2 &amp; 3 Will. 4. c. 68.</a>	The Game (Scotland) Act, 1832.	In section one, the words "deer roe" id both places where these words occur; in section four the word " deer "
<a href="#">11 &amp; 12 Geo. 6. c. 45.</a>	The Agriculture (Scotland) Act, 1948.	Sections thirty-nine, forty, forty-one, and forty-two so far as relating to red deer; in section forty-three, subsection (2); sections forty-four, forty-five, forty-six and forty-seven.

## TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Criminal Procedure (Scotland) Act, 1887	<a href="#">50 &amp; 51 Vict. c. 35.</a>
Interpretation Act, 1889	<a href="#">52 &amp; 53 Vict. c. 63.</a>
Firearms Act, 1937	<a href="#">1 Edw. 8 &amp; 1 Geo. 6. c. 12.</a>
Local Government (Scotland) Act, 1947	<a href="#">10 &amp; 11 Geo. 6. c. 43.</a>
Transport Act, 1947	<a href="#">10 &amp; 11 Geo. 6. c. 49.</a>
Agriculture (Scotland) Act, 1948	<a href="#">11 &amp; 12 Geo. 6. c. 45.</a>
Summary Jurisdiction (Scotland) Act, 1954	<a href="#">2 &amp; 3 Eliz. 2. c. 48.</a>

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Short Title	Session and Chapter
Crofters (Scotland) Act, 1955	3 & 4 Eliz. 2. c. 21.
House of Commons Disqualification Act, 1957	5 & 6 Eliz. 2. c. 20.