



# Agriculture (Scotland) Act 1948

## 1948 CHAPTER 45

### PART III

#### CONTROL OF INJURIOUS ANIMALS, BIRDS AND WEEDS.

##### *Prevention of damage by injurious animals and birds.*

#### **39 Control of injurious animals and birds.**

(1) If it appears to the Secretary of State that it is expedient so to do for the purpose of preventing damage to crops, pasture, animal or human foodstuffs, livestock, trees, hedges, banks or any works on land, he may by notice in writing served on any person having the right so to do require that person to take, within such time as may be specified in the notice, such steps as may be so specified for the killing, taking or destruction on land so specified of such animals or birds to which this section applies as may be so specified or the eggs of such birds.

(2) A requirement shall not be imposed under the last foregoing subsection if apart from this subsection the killing, taking or destruction in question would be prohibited by law:

Provided that a requirement may be so imposed to kill or destroy game within the meaning of the Game (Scotland) Act, 1772, at a time of year at which apart from this proviso the killing or destruction would be prohibited by section one of that Act; and for the purposes of the last foregoing subsection a person shall not be deemed not to have the right to comply with a requirement falling within this proviso by reason only that apart from this proviso compliance therewith would be prohibited as aforesaid.

(3) The animals to which this section applies are rabbits, hares and other rodents, deer, foxes and moles, and the birds to which this section applies are, in relation to any area, wild birds other than those the killing or taking of which is for the time being prohibited in that area by the Wild Birds Protection Acts, 1880 to 1939, or by any order made by the Secretary of State under those Acts; and this section shall apply to such other animals as may be prescribed:

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Provided that regulations under this subsection may provide that for the purposes of section forty-nine of this Act any such other animals specified in the regulations shall not be treated as animals to which this section applies.

- (4) The Secretary of State may with the approval of the Treasury make contributions towards the expenses incurred or to be incurred by any person or body of persons in killing, taking or destroying animals or birds to which this section applies or the eggs of such birds.

#### **40 Prevention of escape of captive animals.**

If it appears to the Secretary of State that, for the purpose of preventing such damage as is mentioned in the last foregoing section, it is expedient to prevent the escape of any animals from land on which they are kept in captivity, the Secretary of State may by notice in writing served on the occupier of the land require him to take within such time as may be specified in the notice such steps to prevent the escape thereof, as may be specified in the notice.

#### **41 Supplementary provisions as to s. 39 and s. 40.**

- (1) If any person fails to comply with a requirement imposed under either of the two last foregoing sections, he shall be liable on summary conviction to a fine not exceeding twenty-five pounds, and to a further fine not exceeding five pounds for each day after conviction on which the failure continues.
- (2) Without prejudice to any proceedings under the last foregoing subsection, where a requirement imposed under either of the two last foregoing sections has not been complied with, any person authorised by the Secretary of State in that behalf may at any time enter on the land to which the requirement relates and take such steps as the Secretary of State may direct to secure compliance with the requirement; and the reasonable cost of taking such steps shall be recoverable by the Secretary of State from the person on whom the requirement was imposed. Any question arising under this subsection as to what is the reasonable cost of taking any such steps as aforesaid shall be determined, in default of agreement, by the Land Court.
- (3) The Secretary of State may give such directions as appear to him to be expedient authorising the keeping of animals, birds, or eggs killed or taken in pursuance of section thirty-nine of this Act or this section and requiring or authorising the disposal of such animals, birds or eggs, whether for the purpose of being used as food or otherwise.
- (4) Where a person incurs any expense reasonably necessary for the purpose of complying with any requirement imposed on him under either of the two last foregoing sections, or where any cost is recovered from a person under subsection (2) of this section, then if he alleges that the expense or cost ought to be borne wholly or in part by some other person having an interest in the land to which the requirement in question relates, he may apply to the Land Court who may make such order for securing that the applicant is wholly or in part indemnified by that other person in respect of the said expense or cost as they consider just and equitable in the circumstances of the case.
- (5) Without prejudice to the general provisions of Part VII of this Act as to the service of notices, any notice to be served -under either of the two last foregoing sections on the owner or the occupier of land used for agriculture shall, where an agent or servant of

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the owner or the occupier is responsible for the control of the farming of the land, be duly served if served on the said agent or servant.

**42 Provision by Secretary of State of equipment and services for pest control.**

- (1) The Secretary of State may, for the purpose of assisting in the killing, taking or disposal of animals or birds to which section thirty-nine of this Act applies, and the eggs of such birds, provide or make contributions towards the provision of such services and equipment, appliances and other material as appear to him to be requisite for that purpose.
- (2) The Secretary of State may make such reasonable charges, if any, as he thinks fit in respect of any assistance rendered under the last foregoing subsection, and may recover the amount of any such charge from the person at whose request the assistance was rendered.