



Wildlife and Natural Environment (Scotland) Act 2011

2011 asp 6

PART 3 **S**

DEER

28 Control agreements and control schemes etc. **S**

- (1) The 1996 Act is amended as follows.
- (2) In section 7 (control agreements)—
 - (a) in subsection (1)—
 - (i) after “SNH” insert “, having had regard to the code of practice on deer management, ”,
 - (ii) the word “deer”, where first occurring, is repealed,
 - (iii) in paragraph (a)—
 - (A) at the beginning insert “ deer or steps taken or not taken for the purposes of deer management ”,
 - (B) in sub-paragraph (i), after “foodstuffs,” insert “ to the welfare of deer ”,
 - (C) the word “or” immediately after sub-paragraph (i) is repealed,
 - (D) after that sub-paragraph insert—
 - “(ia) damage to public interests of a social, economic or environmental nature; or”,
 - (iv) in paragraph (b), at the beginning insert “ deer ”,
 - (v) for the words “the deer in that locality should be reduced in number” substitute “ or for the remedying of such damage, measures require to be taken in relation to the management of deer ”,
 - (vi) the words “for that reduction in number” are repealed,
 - (b) in subsection (3) after “SNH” insert “, having had regard to the code of practice on deer management, ”,
 - (c) in subsection (4)—

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- (i) after “After” insert “ it has given notice to such owners and occupiers of land as it considers to be substantially interested that ”,
 - (ii) for the words from first “such” to “interested” substitute “ those owners or occupiers ”,
 - (d) in subsection (5)—
 - (i) the word “and” immediately after paragraph (d) is repealed,
 - (ii) after paragraph (e) insert “; and
 - (f) set out measures, or steps towards taking such measures, which the owners or occupiers are to take during each 12 month period for which the agreement has effect,”
 - (e) after subsection (6) insert—
 - “(7) SNH must, on at least an annual basis, review a control agreement for the purpose of assessing compliance with its provisions.”.
- (3) In section 8 (control schemes)—
 - (a) for subsection (1) substitute—
 - “(A1) This subsection applies where SNH has given notice under subsection (4) of section 7 of this Act and—
 - (a) either—
 - (i) SNH is satisfied that it is not possible to secure a control agreement or that a control agreement is not being carried out; or
 - (ii) 6 months have elapsed since SNH gave the notice and no agreement has been reached on the matters mentioned in that subsection; and
 - (b) SNH continues to have the view that required it to consult under that subsection.
 - (1) Where subsection (A1) above applies and SNH, having had regard to the code of practice on deer management, is satisfied that action is necessary for the purposes mentioned in subsection (1) or, as the case may be, subsection (3) of section 7 of this Act, it shall make a scheme (a “control scheme”) for the carrying out of such measures as it considers necessary for those purposes.”,
 - (b) in subsection (2)—
 - (i) for “Subsection (1) above does” substitute “ Subsections (A1) and (1) above do ”,
 - (ii) at the end insert “ (except where a purpose of the control agreement is to remedy damage caused, directly or indirectly, by deer or by steps taken or not taken for the purposes of deer management). ”,
 - (c) subsection (5) is repealed,
 - (d) after subsection (7) insert—
 - “(7A) Where any control scheme has been confirmed, SNH must, on at least an annual basis, review it for the purpose of assessing compliance with its provisions.”.
- (4) In section 10 (emergency measures)—
 - (a) in sub-paragraph (i) of subsection (1)(a) the word “serious” is repealed,

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- (b) after that sub-paragraph insert—
 - “(ia) are causing damage to their own welfare or the welfare of other deer;”.
- (5) In section 11 (application of section 10 to natural heritage), the word “serious” is repealed.
- (6) In Schedule 2 (provisions as to control schemes)—
 - (a) in paragraph 1(b)—
 - (i) for the words from “two” to “situated” substitute “ such manner as SNH thinks fit ”,
 - (ii) in sub-sub-paragraph (iii), the words “within the district” are repealed,
 - (b) in paragraph 3, for the words from “shall” to “may” substitute “—
 - (a) must consider the objection, and
 - (b) may”,
 - (c) in paragraph 4—
 - (i) the word “either” where it first occurs is repealed,
 - (ii) the words from “; or” to the end are repealed,
 - (d) in paragraph 6(b)—
 - (i) for the words from “two” to “situated” substitute “ such manner as the Scottish Ministers think fit ”,
 - (ii) in sub-sub-paragraph (iii), the words “within the district” are repealed,
 - (e) in paragraph 8, for the words from “shall” to “may” where it second occurs substitute “—
 - (a) must consider the objection, and
 - (b) may”,
 - (f) in paragraph 9—
 - (i) the word “either” where it first occurs is repealed,
 - (ii) the words from “; or” to the end are repealed,
 - (g) paragraph 11 is repealed,
 - (h) in paragraph 12(b)—
 - (i) for the words from “the” where it first occurs to “situated” substitute “ such manner as the Scottish Ministers think fit ”,
 - (ii) in sub-sub-paragraph (ii), the words “within the district” are repealed,
 - (i) in paragraph 13—
 - (i) in sub-paragraph (1), for “and (3)” substitute “ to (4) ”,
 - (ii) for sub-paragraphs (2) and (3) substitute—
 - “(2) Any owner or occupier of land who is aggrieved by—
 - (a) a decision of the Scottish Ministers to—
 - (i) confirm a control scheme,
 - (ii) make a scheme varying a control scheme, or
 - (iii) revoke a control scheme, or
 - (b) the terms or conditions of such a scheme,

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- (3) An appeal under sub-paragraph (2) must be lodged not later than 28 days after the date of publication of the notice referred to in paragraph 12(b).
- (4) The Scottish Land Court must determine an appeal under sub-paragraph (2) on the merits rather than by way of review and may do so by—
 - (a) affirming the control scheme,
 - (b) directing the Scottish Ministers to revoke the scheme,
 - (c) making such other order as it thinks fit.”.

Commencement Information

II S. 28 in force at 1.1.2012 by S.S.I. 2011/433, art. 2(1)(f)

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