

LAND REFORM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Deer Management

Section 80 – Deer management plans

390. This section provides for a new power for SNH to require a land owner or occupier to produce a deer management plan. SNH can approve the plan with or without modification or reject it. Failure to develop or implement a plan would be grounds for SNH to move to the development of a deer control agreement under section 7 of the 1996 Act. SNH already has the power, where a section 7 agreement fails, or where it is not possible to reach agreement, to proceed to a deer control scheme under section 8 of the 1996 Act.
391. Subsections (1) and (2) provide that section 5A(2)(c) of the 1996 Act is amended to specify that the code of practice on deer management may set out examples of circumstances where SNH may require a deer management plan to be produced. Subsection (3) makes a textual amendment to the italic cross heading before section 6 of the 1996 Act.
392. New section 6A is inserted into the 1996 Act by section 80(4) of the Act. New section 6A requires two sets of conditions (A and B) to be met before SNH, having had regard to the code of practice on deer management, can require an owner or occupier of land to produce a deer management plan.
393. Subsection (1)(a) specifies that the plan should set out the measures that those owners and occupiers consider should be taken, the time limit for taking those measures, who is to take those measures, and any other matters which appear to SNH to be necessary. Subsection (1)(b) provides that the plan is to be submitted to SNH for approval.
394. Subsection (2) sets out that condition A is met where deer or deer management or the lack of deer management have caused, are causing, or are likely to cause damage, including to woodland, to agricultural production, including any crops or foodstuffs, to livestock, to the welfare of deer to the natural heritage generally, to public interests of a social, economic or environmental nature, or where they have become a danger to public safety.
395. Subsection (3) sets out that condition B is met if management of deer is required to prevent further damage, remedy damage or prevent danger.
396. Subsection (4) provides that, in subsection (2)(a)(i), “the natural heritage” has the same meaning as in section 7(2) of the 1996 Act.
397. Subsection (5) provides that a deer management plan must be submitted to SNH within 12 months unless a later date is specified by SNH.
398. Subsection (6) provides that SNH may approve a deer management plan with or without modification or reject it. In accordance with subsection (7), before approving a plan with

*These notes relate to the Land Reform (Scotland) Act 2016
(asp 18) which received Royal Assent on 22 April 2016*

modifications, SNH must consult the owners and occupiers of land who submitted the plan on the proposed modification. Subsection (8) provides that a plan can be amended until SNH decides to approve or reject it.

399. New subsections (4A) and (4B) are inserted in section 7 (control agreements) of the 1996 Act. Subsection (4A) provides that subsection (4) applies where new subsection (4B) applies. Section 7(4) of the 1996 Act provides for SNH, after giving notice to owners and occupiers it considers to be substantially interested in SNH forming a preliminary view on damage caused by deer, to consult with those owners or occupiers on what measures are to be taken, on the time limit for those measures to be taken, and on who is to carry out such measures. New subsection (4B) applies where SNH has given notice under the new section 6A(1) that a deer management plan is required and either the date has passed and a plan has not been submitted, or the plan has been submitted but rejected, or the plan has been approved but the measures set out have not been taken, and in addition where SNH is satisfied that conditions A and B in section 6A(1) continue to be met.