



Wildlife Management and Muirburn (Scotland) Act 2024

2024 asp 4

PART 1

WILDLIFE MANAGEMENT

PROSPECTIVE

Licensing of land for killing and taking of certain birds

9 Killing and taking of certain birds permitted only on land with section 16AA licence

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 2 (exception to s. 1: acts by certain persons outside close season)—
 - (a) for subsection (1A) substitute—

“(1A) This subsection applies where—

 - (a) whatever the kind of bird in question—
 - (i) the person who killed or injured it had a legal right, or permission, to kill such a bird; or
 - (ii) the person who took it had a legal right, or permission, to take such a bird; and
 - (b) in the case of a bird included in Part 1B of Schedule 2—
 - (i) an owner or occupier of the land on which the bird was killed, injured or taken held an unsuspended section 16AA licence; or
 - (ii) the person who killed, injured or took the bird reasonably believed that an owner or occupier held an unsuspended section 16AA licence in relation to that land.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Wildlife Management and Muirburn (Scotland) Act 2024, Cross Heading: Licensing of land for killing and taking of certain birds. (See end of Document for details)

- (1B) In [subsection \(1A\)](#), “permission” means permission from a person who has a right to give it.
- (1C) Where subsection (1D) applies, a person does not commit an offence under section 1 by reason of killing or taking a bird included in Part 1B of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (1D) This subsection applies where—
- (a) the bird was killed or taken through the use of a bird of prey, or injured in an attempt to do so,
 - (b) either—
 - (i) the person who killed or injured it had a legal right, or permission, to kill such a bird, or
 - (ii) the person who took it had a legal right, or permission, to take such a bird, and
 - (c) in the case where the person subsequently killed the injured bird, the person took all reasonable steps to kill it in a way that caused it the minimum possible suffering.”
- (b) in subsection (3C)—
- (i) in paragraph (a), the “and” immediately following sub-paragraph (ii) is repealed,
 - (ii) at the end of paragraph (b)(ii) insert “; and
 - (c) either—
 - (i) an owner or occupier of the land on which the bird was taken held an unsuspended section 16AA licence in relation to the land; or
 - (ii) the person reasonably believed that an owner or occupier held an unsuspended section 16AA licence in relation to that land.”
- (3) In section 26 (regulations, orders, notices etc.)—
- (a) in subsection (2) at the end of paragraph (c) (as inserted by section 7(7)(a) of this Act) insert—
 - “(d) an order under section 22(1)(a) which adds any bird to, or removes any bird from, Part 1B of Schedule 2,”
 - (b) in subsection (3), at the end of paragraph (c) insert—
 - “(d) an order under section 22(1)(a) which adds any bird to, or removes any bird from, Part 1B of Schedule 2,”
- (4) In section 27 (interpretation of Part I), in subsection (1), after the definition of “sale” insert—
- ““section 16AA licence” has the meaning given by [section 16AA\(1\)](#).”.
- (5) In schedule 2, after Part IA insert—

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“PART 1B

BIRDS INCLUDED IN PART 1 WHICH MAY ONLY BE KILLED OR TAKEN ON LAND WITH SECTION 16AA LICENCE

<i>Common name</i>	<i>Scientific name</i>
Grouse, red	Lagopus lagopus scoticus”.

Commencement Information

II S. 9 not in force at Royal Assent, see [s. 35\(2\)](#)

10 Licensing: land on which certain birds may be killed or taken

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) After section 16 insert—

“16AA Licensing: land on which certain birds may be killed or taken

- (1) The relevant authority may, on the application of an owner or occupier of an area of land, grant a licence for the purposes of permitting the killing or taking of any type of bird included in Part 1B of Schedule 2 on the land (a “section 16AA licence”), if it is satisfied that it is appropriate to do so.
- (2) In determining whether it is appropriate to grant a section 16AA licence the relevant authority must have regard in particular to the applicant’s compliance with a code of practice made in accordance with section 16AC.
- (3) Where the relevant authority refuses to grant a licence to an applicant, the relevant authority must give written notice to the applicant of the reasons for doing so.
- (4) An application for a section 16AA licence must—
 - (a) be made to the relevant authority,
 - (b) be made in such manner and form as the relevant authority may require,
 - (c) specify the area of land to which the licence is to relate,
 - (d) contain or be accompanied by such information as the relevant authority may require, and
 - (e) be accompanied by payment of such reasonable fee as the relevant authority may require.
- (5) The relevant authority must publicise any requirements which are for the time being set under [subsection \(4\)\(b\) to \(e\)](#).
- (6) A section 16AA licence—
 - (a) must—

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- (i) specify the person to whom the licence is granted (“the licence holder”),
 - (ii) identify the area of land, by reference to a map, to which the licence relates,
 - (iii) specify any reasonable conditions the relevant authority considers appropriate to attach to the licence, and
 - (b) may be granted or renewed for a period not exceeding 5 years.
- (7) Every section 16AA licence is subject to the condition that the licence holder must have regard to a code of practice made in accordance with section 16AC.
- (8) Conditions which may be specified under subsection (6)(a)(iii) include, in particular, conditions drawn from a code of practice made in accordance with section 16AC.
- (9) The relevant authority may—
- (a) modify a section 16AA licence at any time,
 - (b) suspend or revoke a section 16AA licence if—
 - (i) the licence holder—
 - (A) fails to comply with any conditions attached to the licence, or
 - (B) ceases to be in a position to ensure compliance with the conditions,
 - (ii) the relevant authority is satisfied that the licence holder or a person involved in managing the land to which the licence relates—
 - (A) has committed a relevant offence on the land, or
 - (B) has knowingly caused or permitted another person to do so.
- (10) Where the relevant authority has modified, suspended or revoked a person’s section 16AA licence—
- (a) the relevant authority must give written notice to the person of the modification, suspension or revocation and specify in the notice the reason for the modification, suspension or revocation, and
 - (b) the modification, suspension or revocation may not take effect until the end of—
 - (i) the period of 14 days beginning with the day on which the notice is given, or
 - (ii) such other period as the relevant authority considers appropriate and specifies in the notice.
- (11) A licence holder whose section 16AA licence is suspended is to be treated as not having a section 16AA licence for the duration of the suspension.
- (12) A court which convicts a person of a relevant offence must notify the Scottish Ministers (or Scottish Natural Heritage if the functions under this section have been delegated to that body) of the conviction.
- (13) In this section—
- “relevant authority” means—
 - (a) the Scottish Ministers, or

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- (b) where the Scottish Ministers have delegated (by virtue of section 16A) their functions in relation to section 16AA licences, Scottish Natural Heritage,
“relevant offence” means an offence under—
- (a) Part 1 of this Act,
 - (b) the Protection of Badgers Act 1992,
 - (c) Part 3 of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716),
 - (d) section 1 of the Wild Mammals (Protection) Act 1996,
 - (e) section 19 of the Animal Health and Welfare (Scotland) Act 2006,
 - (f) the Hunting with Dogs (Scotland) Act 2023.
- (14) The Scottish Ministers may by regulations modify the definition of “relevant offence” in [subsection \(13\)](#).

16AB Appeals relating to section 16AA licences

- (1) A person may appeal to the appropriate sheriff against a decision of the relevant authority to—
 - (a) refuse to grant to the person a section 16AA licence,
 - (b) attach a condition to the person’s section 16AA licence,
 - (c) modify, suspend or revoke the person’s section 16AA licence.
- (2) An appeal under this section must be made within the period of 21 days beginning with the day on which notice of the decision being appealed against was given.
- (3) An appeal under this section is to be determined on the merits rather than by way of review.
- (4) The sheriff hearing the appeal may consider any evidence or other matter, whether or not it was available at the time the relevant authority made the decision being appealed against.
- (5) Where a summary sheriff is hearing an appeal, the summary sheriff is to have the same power to make an interim order under section 88(1) of the Courts Reform (Scotland) Act 2014 as a sheriff hearing the appeal would have.
- (6) On determining the appeal, the sheriff may—
 - (a) dismiss the appeal, or
 - (b) give the relevant authority such direction as the sheriff considers appropriate in respect of the decision that is the subject of the appeal.
- (7) The determination of the sheriff may be appealed against only on a point of law.
- (8) In this section—

“appropriate sheriff” means—

 - (a) in a case where the appellant resides in Scotland, a sheriff or summary sheriff of the sheriffdom in which the appellant resides, or

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- (b) in a case where the appellant resides outwith Scotland, a sheriff or summary sheriff of the sheriffdom of Lothian and Borders, sitting at Edinburgh,
 “relevant authority” means—
- (a) the Scottish Ministers, or
 (b) where the Scottish Ministers have delegated (by virtue of section 16A) their functions in relation to licences, Scottish Natural Heritage,
 “section 16AA licence” is to be construed in accordance with [section 16AA\(1\)](#).

16AC Section 16AA Licence: code of practice

- (1) The Scottish Ministers must prepare a code of practice for the purpose of providing guidance about managing land to which a section 16AA licence relates.
- (2) A code of practice may, in particular, provide guidance on—
 - (a) how land should be managed to reduce disturbance of and harm to any wild animal, wild bird and wild plant (including the use of medicated grit for such purposes),
 - (b) how the taking or killing of any wild birds should be carried out,
 - (c) how predators should be controlled.
- (3) The Scottish Ministers must review the current code of practice by the end of every review period.
- (4) Following a review, the Scottish Ministers may revise the current code of practice.
- (5) Before making, reviewing or revising a code of practice the Scottish Ministers must consult—
 - (a) Scottish Natural Heritage,
 - (b) such other persons as they consider likely to be interested in or affected by the management of land to which a section 16AA licence relates.
- (6) Subsection (5)(a) does not apply during any period for which the functions under this section are delegated to Scottish Natural Heritage under section 16AD.
- (7) As soon as practicable after the latest version of the code of practice is made, it must be made publicly available.
- (8) In this section, “review period” means—
 - (a) in relation to the first review, the period of 5 years starting on the day on which subsection (1) is complied with, and
 - (b) each subsequent period of 5 years.

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16AD Section 16AA Licence: delegation of power in relation to code of practice

- (1) The Scottish Ministers may delegate the preparation, publication, review and revision of the code of practice under [section 16AC](#) to Scottish Natural Heritage.
- (2) Any delegation must be made by written direction.
- (3) The Scottish Ministers may modify or revoke a direction.

16AE Report on operation and effect of section 16AA licences

- (1) The Scottish Ministers must, for each reporting period, prepare a report on the operation and effect of section 16AA licences.
- (2) The report must include an assessment of the conservation status, including population size and range, of the following species—
 - (a) golden eagle (*aquila chrysaetos*),
 - (b) hen harrier (*circus cyaneus*),
 - (c) peregrine falcon (*falco peregrinus*),
 - (d) merlin (*falco columbarius*).
- (3) The report may include—
 - (a) the number of licences issued under section 16AA and the area of land affected,
 - (b) the number of licences that have been, or are, subject to suspension or revocation, the duration of those suspensions or revocations, and the reasons for those suspensions or revocations,
 - (c) the number and outcomes of any appeals undertaken under section 16AB, and
 - (d) such other matters as the Scottish Ministers consider appropriate.
- (4) As soon as practicable after each reporting period, the Scottish Ministers must lay the report before the Scottish Parliament.
- (5) The Scottish Ministers may by regulations amend [subsection \(2\)](#) to add or remove species of birds.
- (6) In this section, “reporting period” means—
 - (a) in relation to the first report, the period of 5 years beginning on the day on which section 16AA comes into force, and
 - (b) in relation to each subsequent report, the period of 5 years beginning on the day after the expiry of the previous reporting period.

16AF Report on operation and effect of section 16AA licences: delegation

- (1) The Scottish Ministers may delegate the preparation and publication of the report under section 16AE to Scottish Natural Heritage.
- (2) Any delegation must be made by written direction.

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(3) The Scottish Ministers may modify or revoke a direction.”.

(3) In section 16A (delegation of licence-granting power: Scotland)—

(a) after subsection (1) insert—

“(1B) The Scottish Ministers may delegate their functions in relation to licences under section 16AA (other than the function in [section 16AA\(14\)](#)) to Scottish Natural Heritage.”,

(b) in subsection (3), in the opening words, after “delegation” insert “under subsection (1)”,

(c) in subsection (5), after paragraph (a) insert—

“(aa) Scottish Natural Heritage under [subsection \(1B\)](#) is to be made by written direction.”,

(d) after subsection (5) insert—

“(5A) A direction under subsection (5)(aa) may include provision allowing Scottish Natural Heritage to modify or revoke licences that were granted before the direction.”,

(e) in subsection (7), after “subsection (5)(a)” insert “or (5)(aa)”.

(4) In section 17 (false statements made for obtaining registration, identification number or licence etc.), in the opening words, after “section 16” insert “or 16AA”.

(5) In section 26 (regulations, orders, notices etc.)—

(a) in subsection (2), at the end of paragraph (d) (as inserted by [section 9\(3\)\(a\)](#) of this Act) insert—

“(e) regulations under [section 16AA\(14\)](#) or [16AE\(5\)](#).”,

(b) in subsection (3), at the end of paragraph (d) (as inserted by [section 9\(3\)\(b\)](#) of this Act) insert—

“(e) regulations under [section 16AA\(14\)](#) or [16AE\(5\)](#).”.

Commencement Information

I2 S. 10 not in force at Royal Assent, see [s. 35\(2\)](#)

Status:

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