



Deer (Scotland) Act 1996

1996 CHAPTER 58

PART II

CONSERVATION, CONTROL AND SUSTAINABLE MANAGEMENT OF DEER

Control agreements and control schemes

6 Control areas

In this Act the area to which a control agreement or a control scheme relates is, in relation to that agreement or, as the case may be, scheme, referred to as the “control area”.

7 Control agreements

(1) Subject to the following provisions of this section, where the Commission are satisfied that, on any land, deer—

(a) have caused, are causing, or are likely to cause—

(i) damage to woodland, to agricultural production, including any crops or foodstuffs, or, whether directly or indirectly, to the natural heritage generally; or

(ii) injury to livestock, whether by serious overgrazing of pastures, competing with any such livestock for supplementary feeding, or otherwise; or

(b) have become a danger or a potential danger to public safety,

and that for the prevention of further such damage, injury or, as the case may be, danger or potential danger, the deer in that locality should be reduced in number, they shall form a preliminary view, having due regard to the nature and character of the land in question, as to what measures should be taken for that reduction in number; and, for the purposes of this section and section 8 of this Act, “measures” includes the taking and removal of deer.

Status: This is the original version (as it was originally enacted).

- (2) For the purposes of subsection (1) above “the natural heritage” includes any alteration or enhancement of the natural heritage which is taking place, or is proposed to take place, either naturally or as a result of a change of use determined by the owner or occupier of the land in question; and “damage” shall be construed accordingly.
- (3) Where it appears to the Commission that the circumstances obtaining in a particular area require the complete exclusion of all deer, or of all deer of any species, from that area, they may form the view that any deer within that area should be taken, removed or killed.
- (4) After they have formed—
- (a) the preliminary view mentioned in subsection (1) above; or
 - (b) the view mentioned in subsection (3) above,
- the Commission shall consult with such owners or occupiers of land as the Commission consider to be substantially interested, to secure agreement—
- (i) that measures require to be taken;
 - (ii) as to what measures require to be taken, and within what time limit;
 - (iii) as to who is to carry out such measures; and
 - (iv) as to any other matters which appear to the Commission to be necessary for the purposes of such an agreement.
- (5) Where agreement is reached on the matters mentioned in subsection (4) above the Commission shall draw up an agreement (a “control agreement”) specifying the parties to it, and any such control agreement may—
- (a) describe the control area by reference to a map and specify the approximate extent of that area;
 - (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
 - (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of the Commission, the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;
 - (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 agreement; and
 - (e) set out the time limits within which the owners or occupiers are to take any such measures,
- and the Commission shall send a copy of the control agreement to all the persons who were involved in the consultation referred to in subsection (4) above.
- (6) The Commission and any of the parties to a control agreement may agree at any time to vary its terms.

8 Control schemes

- (1) Where the Commission are satisfied—
- (a) that—
 - (i) it is not possible to secure a control agreement; or
 - (ii) that a control agreement is not being carried out;

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and

(b) that—

- (i) deer have caused and are causing serious damage to woodland or to agricultural production, including crops and foodstuffs, or serious damage, whether directly or indirectly, to the natural heritage, or serious injury to livestock, however caused, or have become and remain a danger to public safety; and
- (ii) action is necessary to prevent such serious damage, serious injury, or danger,

they shall make a scheme (a “control scheme”) for the carrying out of such measures as they consider necessary for the purposes mentioned in subsection (1) or, as the case may be, subsection (3) of section 7 of this Act.

(2) Subsection (1) above does not apply in relation to any control agreement proposed or entered into for the purpose of altering or enhancing the natural heritage.

(3) A control scheme shall—

- (a) describe the control area by reference to a map and specify the approximate extent of that area;
- (b) specify the measures which are to be taken in relation to the deer in that area or any part of it;
- (c) specify, where the deer are to be reduced in number, the number and, if necessary in the opinion of the Commission, the species, sex and class, of the deer to be killed in or taken and removed from the control area or any part of it, and the limit on the number of deer of each species, sex or class to be allowed to be established in the control area or any part of it;
- (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 paragraphs (a) to (c) above;
- (e) prescribe time limits within which the owners or occupiers are to take any such measures as are mentioned in paragraph (d) above;
- (f) include any incidental, consequential or supplemental provisions that may be necessary.

(4) 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.

(5) Nothing in subsection (3) or (4) above 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 of it against the movement of deer, and for the purposes of this section “fence” shall include any artificial obstruction.

(6) A control scheme shall require confirmation by the Secretary of State before it comes into operation; and Schedule 2 to this Act (which makes provision in relation to the making, confirmation, variation and revocation of control schemes) shall have effect.

(7) Where any control scheme has been confirmed, every owner or occupier shall take such measures as the scheme may require of him in accordance with its provisions.

(8) Where the Commission are of the opinion that any owner or occupier of land has failed to comply with subsection (7) above, they shall carry out the requirement, if they are satisfied that it is still necessary to do so; and where the carrying out of such

a requirement involves the killing or taking of deer, the Commission shall have power to dispose by sale or otherwise of any deer so killed or taken.

9 Recovery of expenses incurred in fulfilment of control scheme

- (1) Where any expenses incurred by the Commission in the performance of their duty under section 8(8) of this Act exceed the amount of the proceeds of the sale of any deer killed or taken in pursuance of that performance, the excess shall be recoverable by them from the owner or occupier concerned.
- (2) The Commission shall furnish to any owner or occupier concerned a statement showing—
 - (a) the expenses incurred in the performance of their duty under the said section 8(8);
 - (b) the amount received in respect of the sale of deer; and
 - (c) the amount recoverable from any owner or occupier under this section.
- (3) Any owner or occupier who is aggrieved by a statement under subsection (2) above may, within one month of the statement having been furnished to him, appeal to the Scottish Land Court.
- (4) On an appeal under subsection (3) above, the Scottish Land Court may, if it appears to them to be equitable to do so, vary the amount recoverable from the appellant.
- (5) Subject to the approval of the Secretary of State, the Commission may, in any particular case, waive their right to any expenses recoverable under this section.