



Deer (Scotland) Act 1959

1959 CHAPTER 40 7 and 8 Eliz 2

An Act to further the conservation and control of red deer in Scotland; to prevent the illegal taking and killing of all species of deer in Scotland; and for purposes connected with the matters aforesaid. [14th May 1959]

Commencement Information

II Act not in force at Royal Assent see s. 37(3)

PART I

CONSERVATION AND CONTROL OF RED DEER

1 Constitution and general functions of Red Deer Commission.

- (1) There shall be constituted a commission to be called “the Red Deer Commission” (hereinafter in this Act referred to as “the Commission”) which shall have the general functions of furthering the conservation and control of red deer [^{F1}or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State] and of keeping under review all matters relating to red deer [^{F1}or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State], and such other functions as are conferred on them by or under this Act.
- (2) The Commission shall carry out their functions in accordance with such directions of a general character as may be given by the Secretary of State.
- (3) The Commission shall consist of a chairman and twelve other members appointed by the Secretary of State, and the provisions of the next following subsection shall apply to the appointment of these members other than the chairman.
- (4) The members of the Commission so appointed shall be appointed as follows—
 - [^{F2}(a) one from nominees of the Nature Conservancy Council [^{F3}for Scotland];
 - (aa) one from nominees of the Natural Environment Research Council;]

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Changes to legislation: There are currently no known outstanding effects for the *Deer (Scotland) Act 1959 (repealed 18.11.1996)*. (See end of Document for details)

- (b) three from nominees of such organisations as appear to the Secretary of State to represent the interests of owners of land used for agriculture or forestry;
 - (c) two from nominees of such organisations as appear to the Secretary of State to represent the sporting interest in deer;
 - (d) three from nominees of such organisations as appear to the Secretary of State to represent the interests of farmers and crofters (and of the persons so appointed at least one shall, in the opinion of the Secretary of State, represent the interests of farmers, and at least one shall represent the interests of crofters); and
 - (e) two from nominees of such organisations as appear to the Secretary of State to represent the interests of hill sheep farmers.
- (5) For the purpose of this section the expression “crofter” has the like meaning as in the ^{M1}Crofters (Scotland) Act 1955.
- (6) The provisions contained in the First Schedule to this Act shall have effect in relation to the Commission.

Textual Amendments

- F1** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(1\)](#)
- F2** [S. 1\(4\)\(a\)\(aa\)](#) substituted for [s. 1\(4\)\(a\)](#) by [Nature Conservancy Council Act 1973 \(c. 54\), Sch. 1 para. 4](#)
- F3** Words inserted (prosp.) by the [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 132\(1\)\(a\), 164\(3\), Sch. 9 para. 2](#)

Marginal Citations

- M1** [1955 c. 21.](#)

2 Appointment of panels.

- (1) The Commission may, with the approval of the Secretary of State, set up in any locality a panel consisting of five persons, being a chairman and four other members, two of whom shall, in the opinion of the Commission, be representative of the interests mentioned in heads (b) and (c), and two of the interests in heads (d) and (e), of subsections (4) of the last foregoing section, and of any such panel as aforesaid three shall be a quorum ^{F4}, and the Commission may appoint a member of the Commission or a member of the Commission’s staff to act as observer to the panel for the purpose of sitting with the panel at any meeting and of taking part in their discussions and of informing the Commission of information arising during and decisions taken at such meetings; such an observer shall not be a member of the panel.]
- (2) The Commission may refer to any such panel any matter relating to the functions of the Commission, and it shall be the duty of the panel to advise the Commission on the matter.
- (3) The Commission may delegate to a panel appointed under subsection (1) of this section the functions of the Commission under section six of this Act so far as relating to the locality of that panel, and the panel in the exercise of the functions so delegated to them shall comply with any directions given by the Commission.
- (4) In the exercise of any functions delegated to them as aforesaid, a panel shall have the like powers as the Commission in relation to that exercise.

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Textual Amendments

F4 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 2\(1\)](#)

3 Duty of Commission to advise Secretary of State.

- (1) It shall be the duty of the Commission to advise the Secretary of State on any such matter relating to the purposes of this Act as he may refer to them, and to bring to his attention any matter relating to red deer [^{F5}or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State] of which in the opinion of the Commission he ought to be apprised.
- (2) The Commission shall make an annual report to the Secretary of State on the exercise of their functions under this Act, and the Secretary of State shall lay a copy of the report before each House of Parliament, together with such comments as he may think fit to make.

Textual Amendments

F5 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(1\)](#)

4 Particular powers of the Commission.

The Commission shall have power—

- (a) to advise. . . ^{F6} any owner of land, on the application of such owner, on questions relating to the carrying of stocks of red deer [^{F7}or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State] on that land;
- (b) to collaborate with any person who is conducting any inquiry or investigation into questions of practical or scientific importance relating to red deer [^{F7}or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State].
- [^{F8}(c) to support and to engage in research on questions of practical or scientific importance relating to red deer or sika deer or such other deer as may be specified from time to time by direction of the Secretary of State.]

Textual Amendments

F6 Words repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 3](#)

F7 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(1\)](#)

F8 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 2\(2\)](#)

5 Returns of numbers of deer killed.

- (1) The Commission for the purpose of any of their functions may by notice in writing served on the owner or occupier of any land require him to make a return in such form as the Commission may require showing the number of red deer [^{F9}or sika deer] of each sex which to his knowledge have been killed on the land during such period

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(not exceeding five years) immediately preceding the service of the notice as may be specified therein.

- (2) If any person on whom a notice under the foregoing subsection has been served—
- (a) fails without reasonable cause to make the required return within thirty-six days after the service of the notice, or
 - (b) in making the return knowingly or recklessly furnishes any information which is false in a material particular,

he shall be liable on summary conviction to a fine not exceeding [^{F10}level 3 on the standard scale] or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Textual Amendments

F9 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

F10 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

6 Power of Commission to deal with marauding deer.

[^{F11}(1) Subject to the following provisions of this section, where the Commission are satisfied—

- (a) that red deer or sika deer are, on any agricultural land, woodland or garden ground—
 - (i) causing serious damage to forestry or to agricultural production, including any crops or foodstuffs; or
 - (ii) causing injury to farm animals (including serious overgrazing of pastures and competing with them for supplementary feeding); and
- (b) that the killing of the deer is necessary to prevent further such damage or injury,

they shall authorise in writing, subject to such conditions as may be specified in the authorisation, any person who in their opinion is competent to do so to follow and kill on any land mentioned in the authorisation such red deer or sika deer as appear to that person to be causing the damage or injury.]

- (2) Where the Commission are satisfied that the deer which appear to be causing damage as aforesaid come from particular land, and that any person having the right to kill deer thereon will forthwith undertake the killing of the deer first-mentioned, the Commission shall make a request to that effect in writing to that person.
- (3) Where any such request as aforesaid has been made to a person, the Commission shall not issue an authorisation under this section unless it appears to them that he has become unable or unwilling to comply with the terms of the request.
- (4) An authorisation under this section shall remain in force from the date thereof for such period, not exceeding [^{F12}28] days, as may be specified in the authorisation.
- (5) Where the Commission intend to issue any such authorisation as aforesaid, it shall be their duty to give as soon as practicable to any person who in their opinion is likely to be on any land mentioned therein such warning of their intention as they consider necessary to prevent danger to that person.

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- (6) It shall be the duty of the Commission to give to the owner of any land which is to be mentioned in an authorisation under this section such notice of their intention to issue that authorisation as may be practicable.
- (7) Without prejudice to the general provisions of section sixteen of this Act relating to the service of notices, any notice to be served under this section on an owner of land shall, where an agent or servant is responsible for the management or the farming of the land, be duly served if served on the said agent or servant.
- (8) The Commission may make in respect of the services of any person authorised by them to follow and kill deer as aforesaid, not being one of their servants, such payment as may be agreed.

Textual Amendments

F11 S. 6(1) substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 3\(a\)](#)

F12 Word substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 3\(b\)](#)

VALID FROM 18/10/1996

[^{F13}6AA Application of section 6 in relation to natural heritage.

Section 6 of this Act shall apply in relation to the natural heritage as it applies to woodland, where the Commission are satisfied that deer are causing serious damage to the natural heritage—

- (a) on enclosed land; or
- (b) on unenclosed land, but only if the Commission are also satisfied that the damage is being caused by reason of the presence on the land in question of a significantly higher density of deer population than is usual in all the circumstances.]

Textual Amendments

F13 S. 6AA inserted (18.10.1996) by [1996 c. 44, ss. 5, 14\(2\)](#)

[^{F14}6A Further power of Commission to deal with marauding deer.

- (1) Where the Commission are satisfied that deer of species other than red deer or sika deer are causing serious damage to agricultural land or to woodland and that the killing of the deer is necessary for the prevention of further such damage, they shall be entitled by their servants with the consent of the occupier of the agricultural land or woodland to kill such deer as such servants may encounter in the course of their duties.
- (2) The Commission shall give to the owner of the agricultural land or woodland concerned such notice of their intention to kill deer under this section as may be practicable.
- (3) Sections 21 and 23(1) of this Act shall not apply to the power conferred by subsection (1) above.]

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Textual Amendments

F14 S. 6A inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 4](#)

7 Control schemes.

- (1) Where the Commission are satisfied that red deer [^{F15}or sika deer] have caused damage to agriculture or forestry in any locality, and that for the prevention of further damage the red deer [^{F15}or sika deer] in the area in which the locality is situated should be reduced in number or exterminated, they shall determine, having due regard to the nature and character of the land in that area, what measures shall be taken for that reduction or extermination as the case may be.
- (2) Thereafter it shall be the duty of the Commission to consult with such owners or occupiers of land, being land where red deer [^{F15}or sika deer] are established, as the Commission consider to be substantially interested, to secure agreement on the carrying out of the measures which they have determined as aforesaid.
- (3) Where after such consultations the Commission are satisfied that it is not possible to secure agreement as aforesaid or that the measures agreed on are not being carried out, they shall make a scheme (hereinafter in this Act referred to as a “control scheme”) for the carrying out of such measures, and any such scheme before it comes into operation shall require confirmation by the Secretary of State.
- (4) In this Act the area to which a control scheme relates as aforesaid is, in relation to that scheme, referred to as the “control area”.
- (5) A control scheme shall be made and confirmed in accordance with the provisions of Parts I and III of the Second Schedule to this Act, may be varied or revoked in accordance with the provisions of Parts II and III of the said Schedule, and Part IV of that Schedule shall apply with respect to the validity of such a scheme or any variation or revocation thereof.

Textual Amendments

F15 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

8 Contents of control schemes.

- (1) A control scheme shall—
 - (a) describe the control area by reference to a map and specify the approximate extent of that area;
 - (b) specify whether the red deer [^{F16}or sika deer] in that area or any part thereof are to be reduced in number or exterminated;
 - (c) specify, where the red deer [^{F16}or sika deer] are to be reduced in number, the number, and if necessary in the opinion of the Commission, the sex and class, of the animals to be killed in the control area or any part thereof, and the limit on the number of red deer [^{F16}or sika deer] of each sex to be allowed to be established in the control area or any part thereof;

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- (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 foregoing provisions of this subsection;
 - (e) prescribe time limits within which the owners or occupiers are to take any such measures as aforesaid;
 - (f) include any incidental, consequential or supplemental provisions that may be necessary.
- (2) 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.
- (3) Nothing in the foregoing provisions of this section 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 thereof against the movement of red deer [^{F16}or sika deer], and for the purposes of this section “fence” shall include any artificial obstruction.

Textual Amendments

F16 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

9 Liability of owners or occupiers under control schemes.

- (1) Where any control scheme has been confirmed, it shall be the duty of every owner or occupier of land to take such measures as the scheme may require of him in accordance with the provisions thereof.
- (2) Any person who refuses or wilfully fails to comply with any requirement laid upon him by a scheme shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding [^{F17}level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Textual Amendments

F17 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (18.10.1996) by [1996 c. 44, s. 13\(1\), 14\(2\), Sch. 1 para. 1\(8\)](#)

10 Enforcement of control schemes.

If the Commission are of the opinion that any owner or occupier of land upon whom a requirement is laid by a control scheme has failed to carry out that requirement, it shall be the duty of the Commission to carry out the requirement if they are satisfied that it is still necessary so to do.

11 Recovery of expenses incurred under section 10.

- (1) Where any expenses incurred by the Commission in the exercise of their functions under the last foregoing section exceed the amount of the proceeds of the sale of the carcasses of any red deer [^{F18}or sika deer] killed in pursuance of that exercise, the excess shall be recoverable from the owner or occupier concerned by the Commission.

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- (2) The Commission shall furnish to any owner or occupier concerned a statement showing the expenses incurred in the exercise of their functions as aforesaid, the amount received in respect of the sale of carcasses and the amount recoverable from any owner or occupier under this section; and any owner or occupier who is aggrieved by such a statement may, within one month after such a statement has been furnished to him, appeal to the Scottish Land Court who may, if it appears to them equitable so to do, vary the amount recoverable from him.
- (3) Nothing in the foregoing provisions of this section shall preclude the Commission, with the approval of the Secretary of State, from waiving the right to recover expenses incurred as aforesaid in any particular case.
- (4) The provisions of the Small Landholders (Scotland) Acts 1886 to 1931, with regard to the Scottish Land Court shall, with any necessary modifications, apply for the determination of any appeal under subsection (2) of this section in like manner as those provisions apply for the determination by the Court of matters referred to them under those Acts.

Textual Amendments

F18 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

12 Power of Commission to provide services and equipment.

- (1) The Commission may by agreement with any owner or occupier of land assist in or undertake, whether in pursuance of a control scheme or otherwise, the taking or killing of red deer [^{F19}or sika deer] and the disposal of. . . ^{F20} deer or their carcasses; and the agreement may make provision for the providing of equipment by the Commission.
- (2) Any agreement in pursuance of the last foregoing subsection shall, unless the Commission with the approval of the Secretary of State otherwise decide, provide for the payment of any expenses incurred by the Commission under the agreement.

Textual Amendments

F19 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

F20 Word repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 3](#)

13 Power of Commission to dispose of carcasses.

Without prejudice to the operation of the provisions of section eleven of this Act relating to the disposal of the proceeds of the sale of carcasses, and of section twelve of this Act, the Commission shall have power to dispose by sale or otherwise of the carcasses of all deer killed under their authority.

14 Persons acting under this Part of this Act not required to obtain game licences.

Any person authorised or required by the Commission to kill any red deer [^{F21}or sika deer] under the provisions of this Part of this Act shall not be required to obtain for that purpose a licence to kill game.

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Textual Amendments

F21 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

15 Entry on land.

- (1) Any person duly authorised in writing by the Commission shall have power at all reasonable times to enter upon any land—
 - (a) in pursuance of any of the functions of the Commission under sections six, seven or ten of this Act;
 - (b) for the purpose of determining whether any of their functions under the said sections should be exercised;
 - (c) for the purpose of determining how far and in what manner any requirement placed on any person by virtue of this Part of this Act has been complied with.
 - ^{F22}(d) for the purpose of taking a census of red deer [^{F23}or sika deer] in any area in pursuance of the general functions of the Commission under section 1(1) of this Act.]
- (2) Any person authorised as aforesaid by the Commission who proposes to exercise any power of entry conferred by this section shall, if so required, produce the written document authorising him so to do.
- (3) Admission to any land under this section shall not be demanded as of right, unless notice has been given to the owner and the occupier of the land that it is proposed to enter during a period, specified in the notice, not exceeding one month and beginning at least fourteen days after the giving of the notice, and entry is made on the land during the period specified in the notice:
Provided that this subsection shall not apply to any person acting in pursuance of any of the functions of the Commission under section six of this Act.

Textual Amendments

F22 S. 15(1)(d) added by [Deer \(Amendment\) \(Scotland\) Act 1967 \(c. 37\), s. 1](#)

F23 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

16 Service of notices.

- (1) Subject to the provisions of this section, any notice for the purposes of this Act shall be in writing, and any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at his proper address or sent to him by post.
- (2) Any such notice or other document required or authorised to be served on any person for the purposes of this Act shall be duly served, if that person is an incorporated company or body, if it is served on the clerk or secretary of that company or body.
- (3) For the purposes of this section and [^{F24}section seven of the ^{M2}Interpretation Act 1978], the proper address of any person on whom any such notice or document is to be served shall, in the case of the clerk or secretary of any incorporated company or body, be that of the registered or principal office of such company or body, and in any other case be the last known address of the person in question.

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- (4) Where any notice or other document is to be given to or served on a person as being the person having any interest in land and it is not practicable after reasonable inquiry to ascertain his name or address, the notice or document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it) and delivering the notice or document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.
- (5) Nothing in this section shall require the Commission to give written notice of their intention to issue an authorisation in pursuance of section six of this Act.

Textual Amendments

F24 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

Marginal Citations

M2 [1978 c. 30.](#)

17 Offences in relation to execution of this Part of this Act.

A person who wilfully obstructs any person acting in the execution of this Part of this Act or of any authorisation issued thereunder shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F25}level 3 on the standard scale] or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Textual Amendments

F25 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and [\(18.10.1996\) by 1996 c. 44, ss. 13\(1\), 14\(2\), Sch. 1 para. 1\(15\)](#)

18 Financial provisions.

- (1) The expenses of the Commission shall be defrayed by the Secretary of State, and any sums received by them shall be paid to the Secretary of State.
- (2) All expenses incurred by the Secretary of State under the provisions of this Act shall be defrayed out of moneys provided by Parliament, and any sums received by him under the provisions of the last foregoing subsection shall be paid into the Exchequer.

19 Saving of right to compensation for damage by red deer.

Nothing in the foregoing provisions of this Act or anything done thereunder shall preclude any occupier of any land from recovering any compensation for damage caused by red deer [^{F26}or sika deer] which he would have been entitled to recover if this Act had not been passed.

Textual Amendments

F26 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(2\)](#)

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20 Interpretation of Part I.

In this Part of this Act, unless the context otherwise requires—

“agriculture” and “agricultural land” have the like meanings as in the ^{M3}Agriculture (Scotland) Act 1948;

“functions” includes powers and duties;

“occupier” in relation to any land includes any tenant or sub-tenant, whether in actual occupation of the land or not;

“owner” in relation to any land includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking;

“red deer” means deer of the species *cervus elaphus*.

[^{F27}“sika deer” means deer of the species *cervus nippon*; and any reference to “red deer” or “sika deer” includes any deer which is a hybrid of those species.]

Textual Amendments

F27 Definition inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 1\(4\)](#)

Marginal Citations

M3 1948 c. 45.

PART II

CLOSE SEASONS

21 Close seasons for red deer and power to make close seasons for other species.

(1) Subject to section thirty-three of this Act, no person shall take or wilfully kill [^{F28}or injure] any stag, being a red deer, during the period commencing on the twenty-first day of October and ending on the thirtieth day of June or any hind, being a red deer, during the period commencing on the sixteenth day of February and ending on the twentieth day of October.

[^{F29}(2) The Secretary of State may by order fix a period in each year during which no person shall take or wilfully kill or injure—

- (a) any species of deer named in the order other than red deer; or
- (b) any hybrid of any species of deer named in the order,

and he may fix a different period for males and females of the species or, as the case may be, of the hybrid so named.]

(3) Before making any such order as aforesaid the Secretary of State shall consult with any organisations that appear to him to represent persons likely to be affected by the order.

(4) For the purposes of this section “red deer” means deer of the species *cervus elaphus*.

(5) If any person contravenes the provisions of subsection (1) of this section or of any order made under subsection (2) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F30}[^{F31}level 4 on the standard scale] for each deer in respect of which the offence was committed] or to imprisonment for a term not exceeding three months, or to both such fine and

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imprisonment [^{F32}and to the forfeiture of any deer in respect of which the offence was committed].

[^{F33}(5A) This section does not apply to the killing of deer by any person who keeps those deer by way of business on land enclosed by a deer-proof barrier for the production of meat or foodstuffs, or skins or other by-products, or as breeding stock (or to such killing of deer by the servant or agent of any such person authorised by him for that purpose); provided that the deer are conspicuously marked to demonstrate that they are so kept.]

- (6) This section shall come into operation on the twenty-first day of October, nineteen hundred and sixty-two.

Textual Amendments

- F28** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(a\)](#)
F29 [S. 21\(2\)](#) substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(b\)](#)
F30 Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F31 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
F32 Words added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F33 [S. 21\(5A\)](#) inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 7](#)

PART III

PREVENTION OF ILLEGAL TAKING AND KILLING OF DEER

22 Prohibition of poaching.

Subject to section thirty-three of this Act, if any person without legal right or without permission from a person having such right takes or wilfully kills [^{F34}or injures] deer on any land, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F35}[^{F36}level 4 on the standard scale] for each deer in respect of which the offence was committed or to imprisonment for a term not exceeding three months, or to both], and to the forfeiture of any deer illegally [^{F37}taken or] killed by him or in his possession at the time of the offence:

Provided that the provisions of this subsection shall not apply to any person taking any deer lawfully killed by him. [^{F38}(2) Subject to section 33 of this Act, if any person without legal right to take or kill deer on any land or without permission from a person having such right removes any deer carcass from that land, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F36}level 4 on the standard scale] for each carcass in respect of which the offence was committed or to imprisonment for a term not exceeding three months or to both and to the forfeiture of any carcass illegally removed by him or in his possession at the time of the offence.]

Textual Amendments

- F34** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(d\)](#)
F35 Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F36 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
F37 Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F38 [S. 22\(2\)](#) added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(c\)](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

23 Unlawful taking or killing of deer.

(1) Subject to section thirty-three of this Act, any person who takes or wilfully kills [^{F39}or injures] deer between the expiration of the first hour after sunset and the commencement of the last hour before sunrise shall be guilty of an offence.

(2) Subject to section thirty-three of this Act, it shall be an offence to take or wilfully kill [^{F40}or injure] deer otherwise than by shooting, and shooting for the purposes of this section means discharging a firearm, as defined in [^{F41}the ^{M4}Firearms Act 1968], other than a prohibited weapon.

[^{F42}(2A) Subject to subsection (2B) below and section 33(1) of this Act, if any person—

- (a) discharges any firearm, or discharges or projects any missile, from any aircraft at any deer; or
- (b) notwithstanding the provisions of section 23(5) of this Act uses any aircraft for the purpose of transporting any live deer other than in the interior of the aircraft,

he shall be guilty of an offence.

(2B) Nothing in subsection (2A)(b) above shall make unlawful anything done by, or under the supervision of, a veterinary surgeon or practitioner.

(2C) In subsection (2B) above “veterinary practitioner” means a person who is for the time being registered in the supplementary register, and “veterinary surgeon” means a person who is for the time being registered in the register of veterinary surgeons.]

(3) Any person guilty of an offence against [^{F43}subsection (1), (2) or (2A)] of this section shall be liable on summary conviction to a fine not exceeding [^{F44}[^{F45}level 4 on the standard scale] for each deer in respect of which the offence was committed] or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment [^{F46}and to the forfeiture of any deer illegally taken or killed by him or in his possession at the time of the offence].

[^{F47}(3A) Any person who uses a vehicle to drive deer on unenclosed land with the intention of taking, killing or injuring them shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F45}level 4 on the standard scale] or to imprisonment for a term not exceeding 3 months or to both.]

(4) ^{F48}

(5) Nothing in the provisions of this section shall be construed as prohibiting a person having a legal right to take deer on any land, or a person with permission in writing from any such person as aforesaid, from taking a deer alive on that land in any manner which does not cause it unnecessary suffering.

Textual Amendments

- F39** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(d\)](#)
- F40** Words inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 6\(a\)](#)
- F41** Words substituted by virtue of [Firearms Act 1968 \(c. 27\), s. 59\(3\)](#) and [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)
- F42** [S. 23\(2A\)—\(2C\)](#) inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 8\(1\)](#)
- F43** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 8\(2\)](#)
- F44** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
- F45** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

- F46** Words added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F47 [S. 23\(3A\)](#) inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 9](#)
F48 [Ss. 23\(4\), 29](#) repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 3](#)

Marginal Citations

- M4** [1968 c. 27.](#)

[^{F49}23A Firearm and ammunition.

- (1) The Secretary of State shall have power to make such order as he thinks fit regarding the classes of firearms, ammunition, sights and other equipment which may lawfully be used in connection with killing or taking deer, and the circumstances in which any class of firearms, ammunition, sights or other equipment may be so used.
- (2) Before making an order under subsection (1) above the Secretary of State shall consult any organisations which in his opinion represent persons likely to be interested in or affected by the order.
- (3) Any person who fails to comply with an order under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F50}level 4 on the standard scale] in relation to each deer taken or killed or to imprisonment for a term not exceeding three months, or to both.
- (4) No order shall be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (5) If any person uses any firearm or any ammunition for the purpose of wilfully injuring any deer, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F50}level 4 on the standard scale] for each deer in respect of which the offence was committed or to imprisonment for a term not exceeding three months, or to both.]

Textual Amendments

- F49** [S. 23A](#) inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 10\(1\)](#)
F50 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and [\(18.10.1995\) by 1996 c. 18, ss. 13\(1\), 14\(2\), Sch. 1 para. 1\(20\)](#)

24 Unlawful taking or killing of deer by two or more persons acting together.

If two or more persons acting together do any act which would constitute an offence against [^{F51}any of the three] last foregoing sections of this Act, every such person shall be liable—

- (a) on summary conviction to a fine not exceeding [^{F52}in respect of each deer taken or killed the statutory maximum, which in this section means the prescribed sum within the meaning of section 289B(6) of the ^{M5}Criminal Procedure (Scotland) Act 1975] or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine. . . ^{F53} or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

[^{F54}and on any conviction to the forfeiture of any deer illegally taken or killed by him or in his possession at the time of the offence].

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Textual Amendments

- F51** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 10\(2\)](#)
F52 Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F53 Words repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 3](#)
F54 Words added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)

Marginal Citations

- M5** 1975 c. 21.

25 Unlawful possession of deer and firearms.

- (1) If any person is found in possession of any deer in circumstances which afford reasonable ground for suspecting that he has obtained possession of the deer as a result of his committing an offence against any of the provisions of Part II or of any order made thereunder or of sections twenty-two to twenty-four of this Act, that person may be charged with unlawful possession as aforesaid of such deer.
- (2) If any person is found in possession of any firearm or ammunition in circumstances which afford reasonable ground for suspecting that he has used the firearm or ammunition for the purpose of committing an offence against any of the provisions of sections twenty-two to twenty-four of this Act, that person may be charged with unlawful possession as aforesaid of such firearm or ammunition.
- (3) Where the court is satisfied that a person charged under either or both of the two last foregoing subsections obtained possession of the deer as a result of his committing an offence against any of the provisions of Part II or of any order made thereunder or of sections twenty-two to twenty-four of this Act, or, as the case may be, that he has used any firearm or ammunition for the purpose of committing an offence against any of the provisions of the said sections twenty-two to twenty-four, that person may be convicted of unlawful possession as aforesaid and dealt with in like manner as if he had been convicted of the said offence.
- (4) It shall be lawful to convict a person charged under this section on the evidence of one witness.

VALID FROM 18/10/1996

^{F55}25AA Power of court in trial in one offence to convict of another.

If, upon a trial for an offence under any of sections 21, 22, 23, 23A, 24 or 25 of this Act, or any rule of law relating to reset, the court is not satisfied that the accused is guilty of the offence charged but is guilty of another of those offences, it may acquit him of the offence charged but find him guilty of the other offence and he shall then be liable to the same punishment as for that other offence.

Textual Amendments

- F55** [Ss. 25, 25AA](#) substituted for s. 25 (18.10.1996) by [1996 c. 44, ss, 9, 14\(2\)](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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[^{F56}PART IIIA

LICENSING OF DEALING IN VENISON]

Textual Amendments

F56 Pt. IIIA (ss. 25A-25F) inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\)](#), **ss. 11, 16(4)**

25A Licences to deal in venison.

- (1) An islands or district council may grant to any person whom they consider fit a licence to deal in venison (to be known as a “venison dealer’s licence”).
- (2) The Secretary of State shall have power by order to regulate applications for venison dealers’ licences and the manner in which they are to be dealt with (including power to authorise islands and district councils to charge fees in respect of such applications); and also to regulate the procedure by which venison dealers’ licences may be surrendered, and the procedure for handing in of licences where a court has ordered their forfeiture or the holders have ceased to deal in venison; and in that regard he may apply any provision of Schedule 1 to the Civic Government (Scotland) Act 1982, as he thinks fit.
- (3) A venison dealer’s licence shall be valid for 3 years (unless the dealer has been disqualified from holding a licence by reason of his conviction of an offence under this Act), and may be renewed provided that he is not at the time of application subject to such disqualification.
- (4) Every islands or district council which grants a venison dealer’s licence shall cause to be sent to the Commission as soon as may be a copy of the licence.
- (5) Every islands or district council by whom venison dealers’ licences are granted shall, as soon as may be after the first day of January in each year, make a return to the Commission of the names and addresses of the persons who on that day held venison dealers’ licences issued by the council.

25B Records.

- (1) Every licensed venison dealer shall keep a book wherein shall be entered records in the prescribed form of all purchases and receipts of venison by him and shall enter in such book forthwith the prescribed particulars of such purchases and receipts.
- (2) Any person authorised in writing in that behalf by the Secretary of State or by the Commission and showing his written authority when so requested, or any constable, may inspect any book kept in pursuance of this section and it shall be the duty of the dealer to produce for inspection by such authorised person or constable such book and also all venison in the dealer’s possession or under his control, or on premises or in vehicles under his control, together with all invoices, consignment notes, receipts and other documents (including copies thereof where the originals are not available) which may be required to verify any entry in such book, and to allow such authorised person or constable to take copies of such book or document or extracts therefrom.
- (3) Every book kept in pursuance of subsection (1) above shall be kept until the end of the period of three years beginning with the day on which the last entry was made in the

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book and any such documents as are mentioned in subsection (2) above shall be kept for a period of three years beginning with the date of the entry to which they refer.

(4) For the purposes of this section “prescribed” means prescribed by order.

25C Reciprocal provisions.

A licensed venison dealer who has purchased or received venison from another licensed venison dealer or from a licensed game dealer within the meaning of section 2(4) of the ^{M6}Deer Act 1980 shall be deemed to have complied with the requirements of the preceding section of this Act if he has recorded in his record book—

- (a) that the venison was so purchased or received;
- (b) the name and address of the other licensed venison dealer or of the licensed game dealer concerned;
- (c) the date when the venison was so purchased or received;
- (d) the number of carcasses and sex of the venison; and
- (e) the species of deer, provided that it is possible to identify it.

Marginal Citations

M6 1980 c. 49.

25D Offences.

- (1) It shall be an offence for any person to sell, offer or expose for sale or have in his possession, transport or cause to be transported for the purpose of sale at any premises any venison unless he is a licensed venison dealer or he does so for the purpose of selling to a licensed venison dealer, or he has purchased the venison from a licensed venison dealer.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding [^{F57}level 3 on the standard scale].
- (3) If any person sells, offers or exposes for sale, or has in his possession for the purpose of sale at any premises, or transports for the purpose of sale, or purchases or offers to purchase or receives, the carcass or any part of the carcass of a deer which he knows or has reason to believe has been killed unlawfully, he shall be guilty of an offence.
- (4) A person who is guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding [^{F57}level 4 on the standard scale] or to imprisonment for a term not exceeding 3 months or to both.
- (5) Any licensed venison dealer who fails to comply with any provision of section 25B of this Act, or who knowingly or recklessly makes in any book or document which he is required to keep under that section an entry which is false or misleading in any material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F57}level 2 on the standard scale].
- (6) Any person who obstructs a person entitled under section 25B(2) of this Act to inspect any book or document or other thing in the making of such inspection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F57}level 3 on the standard scale].

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- (7) The court by which any person is convicted of an offence under Part III or IIIA of this Act may disqualify him from holding or obtaining a venison dealer's licence for such period as the court thinks fit.
- (8) In subsection (1) above "licensed venison dealer" means the holder of a venison dealer's licence granted by the islands or district council within whose area the sale, offer or exposure for sale takes place, or where the premises concerned are situated.

Textual Amendments

F57 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

25E Transitional provision.

Notwithstanding the coming into force of section 11 of the Deer (Amendment) (Scotland) Act 1982, sections 25B and 25C and subsections (1), (2), (5), (6) and (8) of section 25D of this Act shall not apply to a registered venison dealer within the meaning of the ^{M7}Sale of Venison (Scotland) Act 1968 until whichever is the earlier of—

- (a) the date on which a venison dealer's licence is granted to that dealer;
- (b) the expiry of 12 months after the commencement of the said section 11,

and the said Act of 1968 shall continue to have effect in relation to such a registered venison dealer during the said period notwithstanding its repeal by the said Act of 1982.

Marginal Citations

M7 1968 c. 38.

25F Interpretation of Part IIIA.

In this Part of this Act—

- “deer” means deer of any species;
- “sale” includes barter, exchange, and any other transaction by which venison is disposed of for value;
- “venison” means the carcase or any edible part of the carcase of a deer.

PART IV

ENFORCEMENT AND PROCEDURE

26 Attempts to commit offences.

Without prejudice to the operation of [^{F58}section sixty-three of the ^{M8}Criminal Procedure (Scotland) Act 1975], and section two of the ^{M9}Summary Jurisdiction (Scotland) Act 1954, any person who attempts to commit, or does any act preparatory to the commission of, an offence against Part II or any order made thereunder or against Part III of this Act shall be guilty of an offence against this Act and shall be punishable

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in like manner as for the said offence ^{F59}; except that in the case of preparatory acts, the penalty shall be a fine not exceeding ^{F60}level 4 on the standard scale] or imprisonment for a term not exceeding three months or both.]

Textual Amendments

- F58** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 460\(7\)](#)
F59 Words added by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(1\), Sch. 1](#)
F60 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Marginal Citations

- M8** 1975 c. 21.
M9 1954 c. 48.

27 Powers of search and seizure.

- (1) A constable may seize any deer, firearm or ammunition, vehicle or boat liable to be forfeited ^{F61}on conviction of an offence under] this Act.
- (2) A sheriff or any justice of the peace, if satisfied by information on oath that there is reasonable ground to suspect any offence against ^{F62}Part III or section 25D(1) or (3)] of this Act to have been committed and that evidence of the commission of the offence is to be found on any premises or in any vehicle or boat, may grant a warrant authorising any constable at any time or times within one week from the date of such warrant to enter, if necessary by force, the said premises and every part thereof or the said vehicle or boat for the purpose of detecting the offence.
- (3) A constable authorised by any such warrant as aforesaid to search any premises or any such vehicle or boat may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle or boat as the case may be, and may seize any article found on the premises, or in the vehicle or boat, or on any such person, which he has reasonable ground for believing to be evidence of the commission of any such offence as aforesaid.
- (4) Where a constable has reasonable grounds for suspecting that an offence against ^{F62}Part III or section 25D(1) or (3)] of this Act has been committed and that evidence of the commission of the offence is to be found in any vehicle or boat, and that by reason of urgency or other good cause it is impracticable to apply for a warrant to search such vehicle or boat, the said constable may stop and search that vehicle or boat and may exercise the like power of search or seizure in relation to the vehicle or boat as might be conferred under subsection (2) of this section by the warrant of the sheriff or of a justice of the peace.
- (5) No female shall in pursuance of any search authorised by this section be searched except by a female.

Textual Amendments

- F61** Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), Sch. 2 para. 2](#)
F62 Words substituted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 14\(3\)](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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28 Apprehension of offenders.

If any person shall be found committing any offence against the provisions of Part III or of this Part of this Act, any constable may arrest that person.

[^{F63}28A Cancellation of firearms licences.

- (1) In any case where a person is convicted of an offence provided for by any of sections 22 to 25 of this Act the court shall have power (in addition to any other power) to cancel any firearm or shotgun certificate held by him.
- (2) Where the court cancels a firearm or shotgun certificate under subsection (1) above—
 - (a) the court shall cause notice in writing of that fact to be sent to the chief constable by whom the certificate was granted; and
 - (b) the chief constable shall by notice in writing require the holder of the certificate to surrender it; and
 - (c) if the holder fails to surrender the certificate within twenty-one days from the date of that requirement, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F64}level 2 on the standard scale].

Textual Amendments

F63 S. 28A inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\)](#), [Sch. 2 para. 1](#)

F64 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (18.10.1996) by [1996 c. 44, ss. 13\(1\), 14\(2\)](#), [Sch. 1 para. 1\(27\)](#)

29 ^{F65}

Textual Amendments

F65 [Ss. 23\(4\), 29](#) repealed by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\)](#), [Sch. 3](#)

30 Disposal of deer seized under the Act.

Where any deer seized under this Part of this Act is liable to forfeiture the person by whom it is seized may sell it and the net proceeds of the sale shall be liable to forfeiture in the same manner as the deer sold:

Provided that no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this section.

31 Offences by bodies corporate.

- (1) When an offence against this Act or any order made thereunder which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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- (2) In this section the expression “director” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

PART V

Supplementary

32 Interpretation of Parts III and IV.

For the purposes of Parts III and IV of this Act unless the context otherwise requires—

“ammunition” has the same meaning as in [^{F66}section 57(2) of the ^{M10}Firearms Act 1968];

“deer” means deer of any species and includes the carcase of any deer or any part thereof;

“firearm” has the same meaning as in [^{F66}section 57(1) of the ^{M11}Firearms Act 1968];

“land” includes land covered by water, but does not include a dwelling-house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith;

“vehicle” includes any conveyance other than a vehicle used for the purposes of a passenger transport service within the meaning of the ^{M12}Transport Act 1947.

Textual Amendments

F66 Words substituted by virtue of [Firearms Act 1968 \(c. 27\), s. 59\(3\)](#) and [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

Marginal Citations

M10 1968 c. 27.

M11 1968 c. 27.

M12 1947 c. 49.

33 Exemptions for certain acts.

- (1) A person shall not be guilty of any offence against this Act or any order made thereunder in respect of any act done for the [^{F67}purpose of preventing suffering by an injured or diseased deer, or by any deer calf [^{F68}, fawn or kid]deprived of its mother]

[^{F69}(2)Where a person performs an act under the authority of or at the request of the Commission in pursuance of section 6 of this Act or in pursuance of a control scheme he shall not by reason of that act be liable to be proceeded against for an offence against this Act, except that—

- (a) where the person is an officer or servant of the Commission performing an act as aforesaid in pursuance of the said section 6, and the act constitutes an offence against section 23(2) of this Act, or

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- (b) where the person is any such officer or servant performing an act as aforesaid in pursuance of a control scheme, and the act constitutes an offence against either subsection (1) or (2) of the said section 23, or
- (c) in the case of any other person performing an act for either of the purposes mentioned in the two last foregoing paragraphs, if the act constitutes an offence against either of the said subsections,

he shall be so liable.]

[^{F70}(3) Notwithstanding section 21 of this Act (close season shooting) or any order made thereunder, or anything in any agreement between an occupier of agricultural land or of enclosed woodlands and the owner thereof, it shall be lawful for—

- (a) the owner in person, provided that he is duly authorised in writing by the occupier for that purpose;
- (b) the owner's servants in his ordinary service, provided that they are duly authorised in writing by the occupier for that purpose;
- (c) the occupier in person;
- (d) the servants of the occupier in his ordinary service on the land or other persons normally resident on the land provided that they are duly authorised in writing by the occupier for that purpose; or
- (e) any other person approved in writing by the Commission as a fit and competent person for the purpose who has been duly authorised in writing by the occupier for that purpose

to take or kill, and to sell or otherwise dispose of the carcasses of, any deer found on any arable land, garden grounds or land laid down in permanent grass (other than moorland and unenclosed land) and forming part of that land or on enclosed woodland, as the case may be, provided that the occupier has reasonable grounds for believing that serious damage will be caused to crops, pasture, trees or human or animal foodstuffs on that land if the deer are not killed.

(3A) Any authority given under subsection (3) above shall expire—

- (a) at the end of such period as the occupier may specify in it;
- (b) when a person to whom paragraph (b) or (d) of that subsection applies ceases to be normally resident or in the owner's or, as the case may be, occupier's ordinary service;
- (c) where paragraph (e) of that subsection applies, at the end of the period specified in the Commission's approval; or
- (d) if the occupier revokes the authority.

(3B) Notwithstanding section 21 of this Act (close season shooting) or any order made thereunder it shall be lawful for any person authorised in writing for the purpose by the Secretary of State to take or kill deer during the close season for any scientific purpose.

(4) Notwithstanding section 23(1) of this Act (night shooting) or anything contained in any agreement between an occupier of agricultural land or of enclosed woodlands and the owner thereof, it shall be lawful for the occupier in person to carry out night shooting of red deer or sika deer on such land or woodlands, provided that the occupier has reasonable grounds for believing that serious damage will be caused to crops, pasture, trees or human or animal foodstuffs on that land if the deer are not killed.

(4A) Notwithstanding anything contained in section 23(1) of this Act the Commission may authorise in writing (subject to such conditions as they may specify) any person nominated by the occupier of agricultural land or enclosed woodlands to shoot deer

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Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

of any species on that land or woodlands during the period specified in the said section 23(1), provided that the Commission are satisfied—

- (a) that the shooting is necessary to prevent serious damage to crops, pasture, trees or human or animal foodstuffs; and
- (b) that no other method of control which might reasonably be adopted in the circumstances would be adequate; and
- (c) that the person concerned is a fit and competent person to receive such authorisation.

(4B) Such authorisation as is mentioned in subsection (4A) above shall be valid for such period as the Commission may specify therein.

(4C) The owner of the agricultural land or enclosed woodlands may at any time request the occupier to inform him of the numbers of red deer or sika deer shot by virtue of subsection (3), (4) or (4A) above within the period of 12 months immediately preceding the request and the occupier shall comply with any such request as soon as may be.

(4D) The Commission shall prepare and publish (with power to prepare and publish a revised version from time to time) a code of practice for night shooting to which they shall have regard when exercising their powers under subsection (4A) above and it shall be a condition of any authorisation under the said subsection that the person concerned complies with the relevant provisions of the code.

(4E) In this section—

“red deer” means deer of the species *cervus elaphus* and “sika deer” means deer of the species *cervus nippon*;
and any reference to “red deer” or “sika deer” includes any deer which is a hybrid of those species.]

(5) The provisions of the last two foregoing subsections shall be construed as one with the ^{M13}Agriculture (Scotland) Act 1948.

Textual Amendments

F67 Words substituted by Deer (Amendment) (Scotland) Act 1967 (c. 37), s. 2(1)

F68 Words inserted by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 12

F69 S. 33(2)(3) substituted by Deer (Amendment) (Scotland) Act 1967 (c. 37), s. 2(2)

F70 S. 33(3)(3A)(3B)(4)(4A)—(4E) substituted for s. 33(3)(4) by Deer (Amendment) (Scotland) Act 1982 (c. 19), s. 13(1)

Marginal Citations

M13 1948 c. 45.

VALID FROM 18/10/1996

[^{F71}33A Authorisation by Commission of certain acts.

- (1) Where a person does any act, in accordance with an authorisation given under subsection (2) or (3) below, which would otherwise be an offence under

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subsection (1) or (3A) of section 23 of this Act, he shall not be guilty of an offence under the said section 23.

- (2) Notwithstanding anything in any agreement between an occupier of agricultural land or of woodland and the owner thereof, but subject to subsections (7) to (10) below, the Commission may authorise such an occupier or any person nominated in writing by such an occupier to take or kill, and to sell or otherwise dispose of, any deer on any such land or woodland during the period specified in section 23(1) of this Act, where they are satisfied that the taking or killing is necessary to prevent serious damage to crops, pasture, human or animal foodstuffs, or to woodland, and no other means of control which might reasonably be adopted in the circumstances would be adequate.
- (3) Subject to subsections (7) to (10) below, the Commission may authorise the owner of any land which deer are on, or any person nominated in writing by him, to use any vehicle to drive deer in order to take or kill them for the purposes of deer management; and, for the purposes of this section—
 - “deer management” does not include driving deer in the course of any sporting activity, and
 - “vehicle” does not include any aircraft or hovercraft.
- (4) Where a person does any act, in accordance with an authorisation given under subsection (5) or (6) below, which would otherwise be an offence under section 21(5) of this Act, he shall not be guilty of that offence.
- (5) Without prejudice to section 33(3) of this Act, notwithstanding anything in any agreement between an occupier of land and the owner thereof and subject to subsections (7) to (10) below, the Commission may authorise the owner or occupier of any land or any person nominated in writing by either of them to take or kill, and to sell or otherwise dispose of, any deer found on that land during the period specified in relation to that species and sex of deer in an order under section 21 of this Act, where they are satisfied that the taking or killing is necessary—
 - (a) to prevent serious damage to any unenclosed woodland which forms part of that land, or serious damage, whether direct or indirect, to the natural heritage generally; or
 - (b) in the interests of public safety,and no other means of control which might reasonably be adopted in the circumstances would be adequate.
- (6) Subject to subsections (7) to (10) below, the Commission may, for any scientific purpose, authorise any person to take or kill deer during the period specified in relation to that species and sex of deer in an order under section 21 of this Act.
- (7) The Commission shall not grant an authorisation under subsection (2), (3), (5) or (6) above unless they are satisfied that the person concerned is a fit and competent person to receive an authorisation under that subsection.
- (8) An authorisation shall—
 - (a) be in writing; and
 - (b) specify the duration of its validity.
- (9) No authorisation shall be granted under subsection (2) or (3) above unless a relevant code has been published under subsection (11) below, and any such authorisation shall contain a condition that the person concerned shall comply with the relevant provisions of any such code.

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Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

- (10) An authorisation may contain such conditions, other than that mentioned in subsection (9) above, as the Commission thinks fit.
- (11) The Commission shall prepare and publish, and from time to time revise, a code of practice for—
- (a) night shooting; and
 - (b) the use of vehicles for the purposes of deer management,
- to which they shall have regard when exercising their power under subsection (2) or, as the case may be, (3) above.]

Textual Amendments

F71 S. 33A inserted (18.10.1996) by 1996 c. 44, ss. 10(1), 14(2)

Modifications etc. (not altering text)

C1 S. 33A(11)(a) extended (18.10.1996) by 1996 c. 44, ss. 10(2), 14(2)

VALID FROM 18/10/1996

[^{F72}33B Information to be supplied to owner of certain land.

– The occupier of any agricultural land or enclosed or unenclosed woodland shall supply, as soon as practicable after being requested to do so by the owner of the land, information to the owner as to the number, sex and species of deer taken or killed by him or by any other person, other than the owner or his servants in ordinary service, authorised or nominated by him under or by virtue of section 33(3) or section 33A(2) or (5) of this Act within the period of twelve months immediately preceding the request.]

Textual Amendments

F72 S. 33B inserted (18.10.1996) by 1996 c. 44, ss. 13(1), 14(2), Sch. 1 para. 1(31)

34 Application of Act to the Crown.

This Act shall apply to land an interest in which belongs to Her Majesty in right of the Crown and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department; but in its application to any land an interest in which belongs or is held as aforesaid this Act shall have effect subject to such modifications as may be prescribed by regulations made by the Secretary of State under this Act.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

VALID FROM 18/10/1996

[^{F73}34A Farmed deer.

- (1) Subject to subsections (2) to (4) below, this Act does not apply in respect of farmed deer.
- (2) The following provisions of this Act apply as respects farmed deer—
 - (a) subsection (2) of section 23, and subsections (3) and (5) of that section in so far as they apply in relation to offences committed against subsection (2);
 - (b) section 23A;
 - (c) section 25AA;
 - (d) Part IIIA; and
 - (e) section 35A.
- (3) The provisions of Part IV of this Act shall apply in respect of an offence committed by virtue of subsection (2) above.
- (4) In this section “farmed deer” means deer of any species which are on agricultural land enclosed by a deer-proof barrier and are kept on that land by any person as livestock.]

Textual Amendments

F73 S. 34A inserted (18.10.1996) by 1996 c. 44, ss. 11, 14(2)

35 Orders, regulations, etc.

- (1) [^{F74}Subject to section 23A(4) of this Act,] any order or regulations made under this Act shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of a resolution by either House of Parliament.
- (2) Any order made under this Act may be varied or revoked by a subsequent order made in the like manner.

Textual Amendments

F74 Words inserted by Deer (Amendment) (Scotland) Act 1982 (c. 19), Sch. 2 para. 3

VALID FROM 18/10/1996

[^{F75}35A Interpretation.

- (1) In this Act, unless the context otherwise requires—
 - “agricultural land” has the meaning given by the ^{M14}Agricultural Holdings (Scotland) Act 1991;
 - “ammunition” and “firearm” have the meanings respectively given in the ^{M15}Firearms Act 1968;

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“animal foodstuffs”, for the purposes of sections 33(3) and 33A(2) of this Act, includes foodstuffs intended for consumption by farmed deer;

“control agreement”, “control area” and “control scheme” have the meanings respectively given by section 7 of this Act;

“deer” means fallow deer, red deer, roe deer and sika deer and any other species of deer specified in an order made under subsection (2) below and includes any hybrid of those species and, where appropriate, the carcass of any deer or any part thereof;

“deer management” includes the management of deer for sporting purposes;

“deer proof barrier” means a barrier which will, having regard to the character and nature of the land, prevent the entry of deer on to or, as the case may be, the escape of deer from any land;

“enclosed” means enclosed by a stock-proof fence or other barrier, and “unenclosed” shall be construed accordingly;

“fallow deer” means deer of the species *Dama dama*;

“farmed deer” has the meaning given in section 34A of this Act;

“functions” includes powers and duties;

“land” does not include a dwelling house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith;

“livestock” has the meaning given by the ^{M16}Agriculture (Miscellaneous Provisions) Act 1968 and, for the purposes of sections 6 and 7 of this Act, includes farmed deer;

“natural heritage” includes flora and fauna, geological and physiographical features and the natural beauty and amenity of the countryside;

“occupier” in relation to any land includes any tenant or sub-tenant, whether in actual occupation of the land or not;

“owner” in relation to any land includes any person who under the Land Clauses Acts would be enabled to sell and convey the land to promoters of an undertaking;

“red deer” means deer of the species *Cervus elaphus*;

“roe deer” means deer of the species *Capreolus capreolus*;

“sika deer” means deer of the species *Cervus nippon*;

“species” includes any hybrid of different species of deer;

“take”, in relation to deer, means take alive, and cognate expressions shall be construed accordingly;

“vehicle” includes an aircraft, hovercraft or boat; and

“woodland” means land on which trees are grown, whether or not commercially, and includes any such trees and any vegetation planted or growing naturally among such trees on that land.

(2) The Secretary of State may, by order made by statutory instrument, specify other species of deer which are to be “deer” for the purposes of subsection (1) above.]

Textual Amendments

F75 S. 35A inserted (18.10.1996) by 1996 c. 44, ss. 12, 14(2)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

Marginal Citations

M14 1991 c.55.

M15 1968 c.27.

M16 1968 c.34.

36 ^{F76}

Textual Amendments

F76 S. 36 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt.XI**

37 Short title, extent and commencement.

- (1) This Act may be cited as the Deer (Scotland) Act 1959.
- (2) This Act, ^{F77}, shall extend to Scotland only.
- (3) This Act, except where otherwise expressly provided, shall come into force at the expiry of one month beginning with the date of its passing.

Textual Amendments

F77 Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO THE RED DEER COMMISSION

Constitution of the Commission

- 1 The Commission shall be a body corporate and shall have a common seal.
- 2 Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, but notwithstanding anything in such an instrument any member of the Commission may resign his office by a notice given under his hand to the Secretary of State, and a member of the Commission who ceases to hold office shall be eligible for reappointment to the Commission.
- [^{F78}2A If the Secretary of State is satisfied that the chairman of the Commission—
- (a) has had his estate sequestrated or has made a trust deed for behoof of his creditors or a composition contract with his creditors;
 - (b) is incapacitated by reason of physical or mental illness;
 - (c) has been absent from meetings of the Commission for a period of more than 3 consecutive months without the permission of the Commission or of the Secretary of State; or
 - (d) is otherwise unable or unfit to discharge the functions of a member of the Commission, or is unsuitable to continue as the chairman,
- the Secretary of State shall have power to remove him from his said office.]

Textual Amendments

F78 Paras. 2A—2C inserted by [Deer \(Amendment\) \(Scotland\) Act 1982 \(c. 19\), s. 5](#)

- 2B Where a person ceases to be chairman of the Commission otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may make to that person a payment of such amount as the Secretary of State may, with the approval of the Treasury, determine.
- 2C The Secretary of State may make such provision, if any, as he may, with the approval of the Treasury, determine for the payment of pensions to or in respect of chairmen of the Commission.

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*Changes to legislation: There are currently no known outstanding effects for the
 Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)*

F79

3

Textual Amendments

F79 Sch.1 para.3 repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), **Sch.3**

- 4 The Secretary of State shall pay—
- (a) to the Chairman of the Commission such remuneration and such allowances, and
- (b) to the other members of the Commission such allowances as he may with the approval of the Treasury determine.

- 5 The Commission may pay to the members of any panel appointed in pursuance of section two of this Act the like allowances as are payable by the Secretary of State to members of the Commission under the last foregoing paragraph.

Meetings and Proceedings of the Commission

- 6 The quorum of the Commission shall be five or such larger number as the Commission may from time to time determine.

- 7 The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or by any defect in the appointment of any member thereof.

- 8 If at any meeting of the Commission the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.

- 9 Subject to the foregoing provisions of this Schedule, the Commission shall have power to regulate their own procedure and that of any panel appointed by them.

Office, Officers and Servants

- 10 The Commission shall have an office at which communications and notices will be received.

- 11 The Secretary of State may provide the services of such officers and servants as the Commission may require.

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Instruments executed or issued by the Commission

- 12 The application of the seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary of the Commission.
- 13 Every document purporting to be an instrument issued by the Commission and to be sealed and attested as aforesaid or to be duly signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

SECOND SCHEDULE

PROVISIONS AS TO CONTROL SCHEMES

PART I

Procedure for making control schemes

- 1 Where the Commission decide to make a control scheme they shall—
 - (a) serve on every owner and every occupier of land on whom the scheme proposes to impose any requirement a copy of the said scheme, together with a notice stating that any such owner or occupier may, within twenty-eight days of the service of the notice, object to the Secretary of State in such manner as may be specified in the notice to the scheme or to any provision contained therein; and
 - (b) in two successive weeks publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that a control scheme has been prepared, describing the said area, naming a place within the district where a copy of the said scheme and of the map referred to therein may be inspected at all reasonable hours, and stating that any person may, within twenty-eight days of the first publication of such notice, object to the Secretary of State in such a manner as may be specified in the notice to the said scheme or to any provision contained therein.
- 2 If no objection is duly made under the last foregoing paragraph or if all objections so made are withdrawn, the Secretary of State may confirm the control scheme either in the form submitted to him or, subject to paragraph 4 of this Schedule, with modifications.
- 3 If any objection duly made as aforesaid is not withdrawn, the Secretary of State shall, before deciding whether to confirm the control scheme, cause a public inquiry to be held, and after considering the objection and the report of the person who held

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the inquiry may confirm the scheme either in the form submitted to him or, subject to paragraph 4 of this Schedule, with modifications.

- 4 The control scheme shall not be confirmed with any modification unless either—
- (a) every person served with a copy of the scheme by virtue of paragraph 1 of this Schedule has been served with notice of the proposal to make the modification and any other person on whom the modification, if made, would impose a requirement, has been served with a notice of the proposal to make the modification along with a copy of the said scheme, and either has consented thereto or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects thereto; or
 - (b) the modification arises from representations made at an inquiry held under paragraph 3 of this Schedule or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the scheme as aforesaid and been afforded an opportunity to appear and be heard at the inquiry.

PART II

Procedure for varying or revoking control schemes

- 5 On the application of the Commission, the Secretary of State may make a scheme varying a control scheme or may revoke a control scheme.
- 6 Before making any such variation or revocation the Secretary of State shall—
- (a) serve on every owner and every occupier of land on whom the control scheme has imposed any requirement or would, if varied as proposed, impose any requirement, a draft of the scheme varying the control scheme or, as the case may be, an intimation of the proposed revocation together with a notice stating that any such owner or occupier may, within twenty-eight days of the service of the draft scheme or the intimation, as the case may be, object to the Secretary of State in such a manner as may be specified in the notice to the variation or revocation of the control scheme; and
 - (b) in two successive weeks publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that the control scheme is to be varied or revoked and that any person may, within twenty-eight days of the first publication of such notice, object in such manner as may be specified in the notice to the making of the variation or revocation, and in the case of any such variation naming a place within the district where a copy of the scheme as proposed to be varied and any map referred to therein may be inspected at all reasonable hours.

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- 7 If no objection is duly made under the foregoing paragraph or if all objections so made are withdrawn, the Secretary of State may vary or revoke the control scheme, as the case may be.
- 8 If any objection duly made as aforesaid is not withdrawn, the Secretary of State shall, before deciding whether to make the variation or revocation as the case may be, cause a public inquiry to be held, and after considering the objection and the report of the person who held the inquiry may make the variation, either in the form of the draft or with modifications, or the revocation, as the case may be.
- 9 A variation of a control scheme shall not be made with any modification unless either—
- (a) every person served with a copy of the draft scheme by virtue of paragraph 6 of this Schedule has been served with notice of the proposal to make the modification and any other person on whom the modification, if made, would impose a requirement has been served with a notice of the proposal to make the modification along with a copy of the said draft scheme, and either has consented thereto or has not, before the expiry of fourteen days from the service of the notice, notified the Secretary of State in writing that he objects thereto; or
 - (b) the modification arises from representations made at an inquiry held under the last foregoing paragraph or from the findings or recommendations of the person holding that inquiry, and every person in respect of whom the modification, if made, would vary or impose a requirement has been served with a copy of the draft scheme as aforesaid and been afforded an opportunity to appear and be heard at the inquiry.

PART III

General Procedural Provisions

- 10 Notwithstanding anything in paragraph 3 or 8 of this Schedule, the Secretary of State may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this Schedule if he is satisfied that the objection is frivolous.
- 11 The provisions of [^{F80}subsections (2) to (8) of section 210 of the ^{M17}Local Government (Scotland) Act, 1973] (which relate to the holding of local inquiries) shall apply in relation to a public local inquiry held under paragraph 3 or 8 of this Schedule as they apply in relation to local inquiries held under the said section [^{F80}210].

Textual Amendments

F80 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 214, Sch. 27 Pt. II para. 143](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996). (See end of Document for details)

Marginal Citations

M17 1973 c. 65.

PART IV

Provisions as to the validity of control schemes and of variations or revocations of such schemes

- 12 On confirming a control scheme or on varying or revoking such a scheme the Secretary of State shall forthwith—
- (a) serve on every person on whom a notice was required to be served under sub-paragraph (a) of paragraph 1 or under sub-paragraph (a) of paragraph 4 of this Schedule or, as the case may be, sub-paragraph (a) of paragraph 6 or under sub-paragraph (a) of paragraph 9 of this Schedule a notice stating that the scheme has been confirmed or, as the case may be, that a variation or revocation of such a scheme has been made;
 - (b) publish in the Edinburgh Gazette and in one or more newspapers circulating in the district in which the control area is situated a notice stating that the scheme has been confirmed or varied or revoked, as the case may be, and naming a place within the district where a copy of the scheme or, as the case may be, the scheme as varied, and of any maps referred to therein, may be inspected at all reasonable hours.
- 13 If any person aggrieved by a control scheme or by any variation or revocation thereof desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks from the date of the first publication of the notice referred to in sub-paragraph (b) of the last foregoing paragraph, make an application for the purpose to the Court of Session, and if any such application is duly made the Court, if satisfied that the scheme or any variation or revocation thereof is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act, may quash the scheme or any variation or revocation thereof, either generally or in so far as it affects the applicant; but except as aforesaid the scheme or any variation or revocation thereof shall not at any time be questioned in any proceedings whatsoever.

F81F81 THIRD SCHEDULE

Textual Amendments

F81 Sch.3 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt.XI

Status:

Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Deer (Scotland) Act 1959 (repealed 18.11.1996).