



# Deer (Scotland) Act 1996

## 1996 CHAPTER 58

### PART III

#### OFFENCES IN RELATION TO DEER

#### **17 Unlawful killing, taking and injuring of deer.**

- (1) Subject to section 25 of this Act, any person who, without legal right to take or kill deer or without permission from a person having such right, takes or wilfully kills or injures deer on any land shall be guilty of an offence.
- (2) Subject to section 25 of this Act, any person who, without legal right to take or kill deer on any land or without permission from a person having such right, removes any deer carcase from that land shall be guilty of an offence.
- (3) Subject to section 25 of this Act, any person who wilfully kills or injures any deer otherwise than by shooting shall be guilty of an offence.
- (4) In subsection (3) above “shooting” means discharging a firearm of a class prescribed in an order under section 21(1) of this Act.

#### **18 Taking or killing at night.**

- (1) Subject to sections 25 and 41(2) of this Act and to subsection (2) below, any person who takes or wilfully kills 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) Notwithstanding anything contained in any agreement between the occupier of agricultural land or of woodland and the owner thereof, but subject to section 37 of this Act, 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 subsection (1) above, where they are satisfied that—

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- (a) the taking or killing is necessary to prevent serious damage to crops, pasture, human or animal foodstuffs, or to woodland; and
- (b) no other means of control which might reasonably be adopted in the circumstances would be adequate.

## **19 Use of vehicles to drive deer.**

- (1) Subject to section 41(2) of this Act and to subsection (2) below, any person who uses a vehicle to drive deer on any land with the intention of taking, killing or injuring them shall be guilty of an offence.
- (2) Subject to section 37 of this Act, 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.
- (3) In subsection (2) above—
  - “deer management” does not include driving deer in the course of any sporting activity; and
  - “vehicle” does not include any aircraft or hovercraft.

## **20 Other offences connected with moving vehicles.**

- (1) Subject to sections 25 and 41(2) of this Act and to subsection (2) below, any person who—
  - (a) discharges any firearm, or discharges or projects any missile, from any moving vehicle at any deer; or
  - (b) uses any aircraft for the purposes of transporting any live deer other than in the interior of the aircraft,
 shall be guilty of an offence.
- (2) Nothing in subsection (1)(b) above shall make unlawful anything done by, or under the supervision of, a veterinary surgeon or practitioner.
- (3) In subsection (2) 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.

## **21 Firearms 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.

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- (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) Any person who uses any firearm or any ammunition for the purpose of wilfully injuring any deer shall be guilty of an offence.

## **22 Offences committed by more than one person.**

Where two or more persons acting together do any act which would constitute an offence under any of sections 17 to 21 of this Act, every such person shall be guilty of an offence.

## **23 Illegal possession of deer.**

- (1) A person who is in possession of a deer or of firearms or ammunition in circumstances which make it reasonable to infer that—
  - (a) he obtained the deer by committing a relevant offence; or
  - (b) he had used the firearm or ammunition for the purpose of committing a relevant offence; or
  - (c) he knew that—
    - (i) a relevant offence had been committed in relation to the deer; or
    - (ii) the firearm or ammunition had been used for the purpose of committing a relevant offence,shall be guilty of an offence.
- (2) It shall be a defence in proceedings for an offence under subsection (1) above for the accused to show that no relevant offence had been committed, or that he had no reason to believe that such an offence had been committed.
- (3) For the purposes of this section a “relevant offence” is an offence under any of sections 5 or 17 to 22 of this Act.
- (4) A person shall not be guilty of an offence under subsection (1) above in respect of anything done in good faith, including conduct which would otherwise constitute a relevant offence in relation to any deer, where what is done is done for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.
- (5) It shall be lawful to convict a person charged under subsection (1) above on the evidence of one witness.

## **24 Attempts to commit offences.**

Without prejudice to the operation of section 294 of, and paragraph 10 of Schedule 3 to, the <sup>MI</sup>Criminal Procedure (Scotland) Act 1995, any person who—

- (a) attempts to commit; or
  - (b) does any act preparatory to the commission of,
- an offence under section 5(5) or this Part of this Act shall be guilty of an offence.

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#### Marginal Citations

M1 1995 c.46.

### *Exemption for certain acts*

#### **25 Action intended to prevent suffering.**

A person shall not be guilty of an offence against this Act or any order made under this Act in respect of any act done for the purpose of preventing suffering by—

- (a) an injured or diseased deer; or
- (b) by any deer calf, fawn or kid deprived, or about to be deprived, of its mother.

#### **26 Right of occupier in respect of deer causing serious damage to crops etc. on certain ground.**

(1) Notwithstanding anything contained in section 5 of this Act, it shall be lawful for a person to whom this subsection applies to take or kill, and to sell or otherwise dispose of, any deer found, as the case may be, on—

- (a) arable land, improved permanent pasture (other than moorland) and land which has been regenerated so as to be able to make a significant contribution to the productivity of a holding which forms part of that agricultural land; or
- (b) on enclosed woodland,

where the occupier has reasonable ground for believing that serious damage will be caused to crops, pasture or human or animal foodstuffs on that agricultural land, or to that woodland, if the deer are not taken or killed.

(2) Subsection (1) above applies to the occupier in person and, if duly authorised in writing by the occupier for the purposes of that subsection, to any of—

- (a) the owner in person;
- (b) the owner's employees;
- (c) the occupier's employees, or any other person normally resident, on the land;
- (d) any other person approved in writing by the Commission as a fit and competent person for the purpose.

[<sup>F1</sup>And in relation to enclosed land (other than moorland) which is part of a common grazing, the subsection also applies to a person who for the purposes of the subsection is both duly authorised in writing by the grazings committee (provided the grazings committee have such reasonable ground as is mentioned in that subsection) and approved as is mentioned in paragraph (d) above.]

[<sup>F2</sup>(2A) For the purposes of subsection (2)(d) above, an approval may be by electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000 (c. 7) ), which has been recorded and is consequently capable of being reproduced. ]

(3) Nothing contained in any agreement between an occupier of agricultural land or enclosed woodland and the owner of that land shall prohibit any act made lawful by subsection (1) above.

(4) Any authority given to a person under subsection (2) above shall expire—

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- (a) at the end of such period as the occupier<sup>F3</sup>, or as the case may be the committee,] may specify in it;
- (b) when a person to whom it was given under paragraphs (b) or (c) of that subsection ceases to be in the employment of the owner or, as the case may be, the occupier, or ceases to be normally resident on the land;
- (c) when a person to whom it was given under paragraph (d) of that subsection ceases to be so approved;
- (d) if the occupier<sup>F4</sup>, or as the case may be the committee,] revokes it.

#### Textual Amendments

- F1** Words in s. 26(2) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(a)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F2** S. 26(2A) inserted (23.6.2006) by Electronic Communications (Scotland) Order 2006 (S.S.I. 2006/367), arts. 1(1), **3(5)**
- F3** Words in s. 26(4)(a) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.
- F4** Words in s. 26(4)(d) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **Sch. 1 para. 4(b)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, Sch.

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