



Deer (Scotland) Act 1996

1996 CHAPTER 58

PART IV

ENFORCEMENT, LICENSING OF VENISON DEALING AND MISCELLANEOUS PROVISIONS

Miscellaneous and general provisions

41 Savings for certain rights.

- (1) Nothing in Parts I or II (except section 5) of this Act or anything done thereunder shall preclude any occupier of any land from recovering any compensation for damage caused by deer which he would have been entitled to recover if this Act had not been passed.
- (2) Nothing in sections 18(1), 19(1) or 20(1)(a) of this Act shall be construed as prohibiting—
 - (a) a person having a legal right to take deer on any land; or
 - (b) a person having permission in writing from any such person as is mentioned in paragraph (a) above,from taking a deer on that land in any manner which does not cause it unnecessary suffering.

42 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 employees, authorised or nominated by him under or by virtue of section 5(6), 18(2) or 26(2) of this Act within the period of twelve months immediately preceding the request.

Changes to legislation: There are currently no known outstanding effects for the Deer (Scotland) Act 1996, Cross Heading: Miscellaneous and general provisions. (See end of Document for details)

43 Application of Act to 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) subsections (3) and (4) of section 17;
 - (b) section 21;
 - (c) sections 33 to 36;
 - (d) section 45.
- (3) The provisions of sections 24 and 27 to 32 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.

44 Application of Act to the Crown.

- [^{F1}(1) This Act binds the Crown, subject to such modifications as may be prescribed.]
- (2) In subsection (1) above, “prescribed” means prescribed in regulations made by the Secretary of State under this Act.
 - [^{F2}(3) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
 - (4) Despite subsection (3), this Act applies to persons in the public service of the Crown as it applies to other persons.
 - (5) The power conferred by section 15 of this Act is exercisable in relation to Crown land only with the consent of the appropriate authority.
 - (6) In subsection (5), “Crown land” means an interest in land which—
 - (a) belongs to Her Majesty in right of the Crown;
 - (b) belongs to Her Majesty in right of Her private estates;
 - (c) belongs to an office-holder in the Scottish Administration or is held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration; or
 - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
 - (7) In subsection (5), the “appropriate authority”—
 - (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
 - (b) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration who or, as the case may be, government department which manages the land [^{F3}or the relevant person] ;
 - (c) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers;

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- (d) in the case of land belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration, means that office-holder;
- (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that government department.

[In subsection (7), “relevant person”, in relation to any land to which section 90B(5)^{F4}(7A) of the Scotland Act 1998 applies, means the person who manages that land.]

- (8) The references in subsections (6)(b) and (7)(c) to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c.37).
- (9) It is for the Scottish Ministers to determine any question which arises as to who is the appropriate authority in relation to any land, and their decision is final.]

Textual Amendments

- F1** S. 44(1) substituted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 41(5)(a), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(i)
- F2** S. 44(3)-(9) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 41(5)(b), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(i)
- F3** Words in s. 44(7)(b) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), **Sch. 5 para. 26(a)**
- F4** S. 44(7A) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), **Sch. 5 para. 26(b)**

45 Interpretation.

- (1) In this Act, unless the context otherwise requires—
 - “agricultural land” has the meaning given by the ^{M1}Agricultural Holdings (Scotland) Act 1991;
 - “ammunition” and “firearm” have the meanings respectively given in the ^{M2}Firearms Act 1968;
 - “animal foodstuffs”, for the purposes of sections 18(2) and 26 of this Act, includes foodstuffs intended for consumption by farmed deer;
 - [^{F5}“code of practice on deer management” means the code of practice currently in operation in pursuance of section 5A of this Act;]
 - “control agreement” has the meaning given by section 7 of this Act;
 - “control area” has the meaning given by section 6 of this Act;
 - “control scheme” has the meaning given by section 8 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 of it;
 - “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;

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“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 43 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 ^{M3}Agriculture (Miscellaneous Provisions) Act 1968 and, for the purposes of sections 7, 8 and 10 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*;

[^{F6}“registered person” means a person registered in accordance with regulations under section 17A(1);]

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

[^{F7}“shoot” means discharge a firearm of a class prescribed in an order under section 21(1) of this Act; and “shooting” is to be construed accordingly;]

“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, specify other species of deer which are to be “deer” for the purposes of subsection (1) above.

Textual Amendments

- F5** Definition in s. 45(1) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 27(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F6** Definition in s. 45(1) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 30(8)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)
- F7** Definition in s. 45(1) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 30(8)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(f)

Marginal Citations

- M1** 1991 c.55.
M2 1968 c.27.
M3 1968 c.34.

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F8 46 Financial provisions

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Textual Amendments

F8 S. 46 repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 1 para. 25](#); S.S.I. 2010/221, art. 3(2), Sch.

47 Orders, regulations etc.

- (1) Subject to section 21(4) of this Act, any order or regulations made under this Act shall be made by 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.

48 Short title, consequential amendments, repeals, extent and commencement.

- (1) This Act may be cited as the Deer (Scotland) Act 1996.
- (2) Schedule 4 (which makes provisions consequential on this Act) and Schedule 5 (which repeals provisions consolidated by this Act) shall have effect.
- (3) Subject to subsection (4) below, this Act shall extend to Scotland only.
- (4) The amendments contained in Schedule 4 and the repeals contained in Schedule 5 have the same extent as the enactments therein amended or, as the case may be, repealed.
- (5) Schedule 6 (which contains transitional and transitory provisions and a saving) shall have effect.
- (6) This Act shall come into force at the expiry of the period of one month beginning with the date on which the ^{M4}Deer (Amendment)(Scotland) Act 1996 comes into force.

Marginal Citations

M4 1996 c. 44.

Changes to legislation:

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