

EXPLANATORY NOTES

Natural Environment (Scotland) Act 2026 (asp 6)

£14.80

These notes relate to the Natural Environment (Scotland) Act 2026 (asp 6)
which received Royal Assent on 12 March 2026

NATURAL ENVIRONMENT (SCOTLAND) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Natural Environment (Scotland) Act 2026. They do not form part of the Act and have not been endorsed by the Parliament.

2. These Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE ACT

Overview

3. The Act has four Parts:

- Part 1 deals with setting targets in relation to protecting and improving biodiversity.
- Part 2 relates to National Parks.
- Part 3 relates to deer management and implements recommendations of the deer working group [1].
- Part 4 relates to miscellaneous topics, including swift nest boxes, marine protection, gulls, forestry and scallop shells. It also contains general provisions about the Act's interpretation, commencement and name as well as conferring power to make ancillary provision by regulations.

Interpretation

- The Act and these Notes refer to Scottish Natural Heritage ("SNH"). It is a statutory body established by section 1 of the Natural Heritage (Scotland) Act 1991. Following a rebranding in 2020, Scottish Natural Heritage is now known as NatureScot. Its formal legal name remains unchanged however and so it is by that name that it is referred to in the Act and these Notes.

4. The Act's freestanding text (that is, its sections) falls to be interpreted in accordance with the Interpretation and Legislative Reform (Scotland) Act 2010 ("ILRA").

[1] The Deer Working Group was established by the Scottish Government in 2017. It reviewed the existing arrangements of the systems in place for the management of deer and made 99 recommendations. Its report 'The management of wild deer in Scotland: Deer Working Group report' may be found at: https://www.gov.scot/publications/management-wild-deer-scotland/

5. Text that the Act inserts into another enactment falls to be interpreted in accordance with the interpretation legislation that applies to that enactment.

6. The interpretation legislation applicable to Acts of the Scottish Parliament the Bills for which received Royal Assent on or after 4 June 2010 (such as the Land Reform (Scotland) Act 2016) is ILRA.

7. The interpretation legislation applicable to Acts of the Scottish Parliament the Bills for which received Royal Assent before 4 June 2010 (such as the National Parks (Scotland) Act 2000) is the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999.

8. The interpretation legislation applicable to Acts of the UK Parliament (such as the Deer (Scotland) Act 1996) is the Interpretation Act 1978.

Crown application

9. Section 20 of ILRA provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, this Act applies to the Crown in the same way as it applies to everyone else.

10. However, where the Act amends an existing enactment, it makes no change to the application of the enactment to the Crown[2].

PART 1 – TARGETS FOR IMPROVING BIODIVERSITY

Section 1 - Targets for improving biodiversity

11. Section 1 of the Act amends the Nature Conservation (Scotland) Act 2004 ("the 2004 Act") to place a series of duties on the Scottish Ministers. The primary duty is to set targets in connection with nature restoration for the purpose of supporting and measuring implementation of (i) the biodiversity strategy designated under section 2 of the 2004 Act, (ii) the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 ("the UN Convention on Biological Diversity") and, (ii) more generally, in connection with the duty on every public body and office-holder under section 1 of that Act to further the conservation of biodiversity so far as is consistent with the proper exercise of its functions. Thereafter further duties provide mechanisms for seeking independent advice, monitoring and reviewing progress, accounting to the Scottish Parliament and, if appropriate, amending or refining the targets. There is also provision for Environmental Standards Scotland ("ESS") to undertake a quality assurance role. Taken together, this creates a system of ministerial accountability to support the duty to meet the targets contained in section 2D(1) of the 2004 Act.

[2] See section 55 of the Nature Conservation (Scotland) Act 2004, section 32 of the National Parks (Scotland) Act 2000 and section 44 of the Deer (Scotland) Act 1996, section 100 of the Land Reform (Scotland) Act 2003, section 162 of the Marine (Scotland) Act 2010, Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, section 67 of the Aquaculture and Fisheries (Scotland) Act 2013, sections 66B and 67 of the Wildlife and Countryside Act 1981, sections 83 and 84 of the Forestry and Land Management (Scotland) Act 2018, and sections 30 and 31 of the Wildlife Management and Muirburn (Scotland) Act 2024.

12. Using secondary legislation recognises that nature restoration is a complex activity, which may require adjustment and refinement in light of experience, and has the potential for complex natural interactions sometimes producing unexpected results. This may be contrasted with some other forms of statutory target – such as the net zero emissions target[3] – where there is a clear target or standard to achieve.

13. Furthering the connection between section 1 duties in the 2004 Act and targets set under these provisions, subsection (3) amends the 2004 Act to require public bodies, when complying with their biodiversity duty under section 1 to have regard to the need to act in a way best calculated to contribute to the meeting of the targets. This is in addition to the need to have regard to the biodiversity strategy and the UN Convention on Biological Diversity, which the duty in section 1 of the 2004 Act also requires.

Inserted section 2B – Purpose of setting targets

14. This provision frames the duties that follow by making clear that the purpose of setting the targets is primarily to provide a means of measuring and reporting on the progress being made to implement the biodiversity strategy designated under section 2 of the 2004 Act and in respect of the UN Convention on Biological Diversity as amended from time to time (or any United Nations Convention replacing that Convention), but also to generally support the duties under section 1 of that Act. Spelling out this purpose emphasises that, while meeting the targets is important, the Act is creating a structure for activity which is contributing to the wider programme of nature restoration.

Inserted section 2C – Duty to set targets

15. This section provides the basis for the setting of targets. Subsection (1) sets out the power and, in paragraph (a)(i) to (iii), lists three particular topics in respect of which targets (and accompanying indicators) are to be set, namely (i) the condition or extent of any habitat; (ii) the status of any species (including in particular those which are or may become threatened), and (iii) the environmental conditions for nature regeneration. Paragraph (b) allows the setting of other targets that the Scottish Ministers consider are relevant to the restoration or regeneration of biodiversity.

16. While the power to set the targets in subsection (1) is permissive (in order to ensure that it can be used flexibly and on multiple occasions) subsections (2) and (3) mean that the Scottish Ministers must lay draft regulations for at least one target for each topic described in subsection (1)(a)(i) to (iii) before the Scottish Parliament within 12 months of the provisions coming into force. Otherwise, the regulations are subject to the affirmative procedure and the additional requirements specified in section 2G.

17. The targets to be set may take a variety of forms. In some cases, it may be by reference to achieving a particular environmental standard within a particular timeframe. In those cases, there may be an element of overlap with the means specified to measure progress and achievement of the target. In other cases, it may be by reference to achieving a particular outcome or set of circumstances.

18. For example, if a target for an endangered species is simply to increase the number of breeding pairs in an area, the measure and the target may align. But if the target is to reduce the risk status of an endangered species, a more holistic set of measures may be relevant: the number of breeding pairs may only be part of the equation, there will also be a need for

[3] Section A1 of the Climate Change (Scotland) Act 2009.

sufficient food to sustain those pairs and their young and that may also need to be measured. Conditions relating to habitat restoration or improvement may be expressed in terms of a high-level outcome or return to a particular baseline and then be supported by a different set of metrics or indicators (say trends in the number of pollinators, diversity of plant species etc.).

Inserted section 2D – Setting targets: statements

19. This section requires the Scottish Ministers to prepare a statement when setting targets under section 2C. The statement must provide a range of information, including the approach they will take to ensure targets are met, how that approach is intended to be funded (including, for example, if some of the funding is to come from third sector or private sources), how long it is anticipated to take, organisations (or types of organisations) which will be involved, how the targets support or have regard to other relevant Scottish Government policies and strategies, the intended monitoring measures that will be used for assessing progress against the statutory measures and indicators that are to be set with the targets, the potential implications and consequences if targets are not met and the actions the Scottish Ministers intend to take if that should occur.

Inserted section 2E – Duties in relation to meeting targets

20. Section 2E of the 2004 Act imposes a duty on the Scottish Ministers to ensure that the targets set are met and provides for what is to happen if a target is not met or it becomes apparent to them that it will not be possible to meet the target. Subsection (2) defines how a target is to be met by reference to the various measures and indicators.

21. The main duty in subsection (1) is framed to reflect the role of the Scottish Ministers in respect of the targets. While the responsibility for meeting the targets lies with them, it will take co-ordinated activity by many people and organisations to achieve the targets.

22. Subsections (3) and (4) should be read together and provide for what is to happen where a target is not met or if the Scottish Ministers believe that it is no longer possible for a target to be met. In those circumstances, the Scottish Ministers must make a statement to the Scottish Parliament setting out their view as to why the target was not (or will not be) met along with the steps that they intend to take in consequence of that. As soon as reasonably practicable, the Scottish Ministers must also lay draft regulations to revoke the missed target and set a new target. Both the statement and laying of the draft regulations provide a means for the Scottish Parliament to scrutinise the actions taken, the reasons for the targets not being met and the proposals for future targets.

Inserted section 2F – Reviewing progress and power to adjust topics

23. This section requires the Scottish Ministers to carry out such reviews in relation to the targets as they consider appropriate; prepare regular (not less than once every 3 years) reports on that progress and, at least once every 10 years, carry out a review and report on the suitability of the targets set and indeed the topics themselves. When carrying out reviews, the Scottish Ministers must seek and have regard to scientific advice in relation to the targets set and the topics specified from such persons as the Scottish Ministers consider to be independent and have relevant expertise (subsection (2)). To avoid unnecessary duplication of reporting, subsection (3) expressly permits the combination of the three-yearly reports with the reports in respect of the Scottish Biodiversity strategy that are required on the same cycle[4].

[4] See section 2(7) of the 2004 Act.

24. All reports prepared under the section are to be laid before the Scottish Parliament and published and the Scottish Ministers are to make a statement to Parliament in relation to the report. As with the laying of regulations, it is expected that the Scottish Ministers will also lay the report prepared by ESS that reviews the Scottish Ministers' report at the same time.

25. Subsection (5) enables the Scottish Ministers to adjust the topics in section 2C(1) so as to add or amend the topics. This means that the three topics in paragraph (a) for which targets must be set cannot be removed, although they can be changed. Regulations to change the topics are subject to the affirmative procedure and the additional requirements of section 2G.

26. Subsection (7) sets out when the 3-year and 10-year periods for reports begin. In the case of the first reports, both periods are calculated by reference to when section 1 of the Act comes into force and subsequent periods start from the date of publication of the previous report.

Inserted section 2G – Process for setting or amending targets or adjusting topics

27. This section sets out a number of conditions and procedural steps that apply to the initial setting of targets and any subsequent amendments to them.

28. In all cases, before making regulations under section 2C (whether setting or amending a target or changing the measures or indicators) or section 2F (changing the topics) the Scottish Ministers must seek and consider scientific advice from independent experts[5]. While the form of such advice to be sought is not specified in the legislation, it is illustrative to note that to inform the development of the Act, the Scottish Government convened a Biodiversity Programme Advisory Group of independent academics on a voluntary and non-statutory basis with quality assurance provided by the Scientific Advisory Committee of NatureScot[6].

29. The Scottish Ministers must also consult such persons as they consider may have an interest in or otherwise be affected by the regulations.

30. Where the regulations set or amend a target, the Scottish Ministers must be satisfied that the target or the amended target can actually be met. Coming to this view is likely to be informed by the scientific advice and a wide range of other considerations.

31. Subsection (3) provides that, if the regulations are to amend a target, at the same time as laying the regulations, the Scottish Ministers must also lay before Parliament a statement as to why they consider it is appropriate to do so (unless a statement has already been laid in relation to the targets under section 2E(4)(a)). For example, if progress against the target has been better than expected, it may be appropriate to adjust the target to a different timeframe for completion. Equally, if it appears that the target is having an unforeseen consequence, it may be appropriate to adjust the target to mitigate against that.

[5] Although if sufficient advice has already been obtained as part of a review process, section 2F(2) confirms that the Scottish Ministers do not need to do so again.

[6] Further details of which are contained in the Policy Memorandum which accompanied the Bill: https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/natural-environment-scotland-bill/introduction/policy-memorandum-accessible.pdf .

32. Although not expressly required by the provision[7], it is intended that the Scottish Ministers will also lay the report received from ESS in connection with its quality assurance role on the taking of advice or a reviewing and reporting on the targets (see the notes on section 2H below) at the same time as laying the regulations.

33. Subsection (5) provides that regulations may only revoke a target or amend it in a way that diminishes it (such as reducing the intended ambition) in three circumstances, namely:

- The target has not been met or the Scottish Ministers don't believe it will be met and therefore must attempt to set a replacement target.
- The Scottish Ministers are satisfied that the existing target would have no significant benefit compared with not meeting the target or meeting a diminished target. This covers situations where it becomes apparent that even if the target is fully met it is not making the intended contribution to restoring or regenerating biodiversity.
- Changes in circumstances or scientific knowledge mean that the target or the manner in which progress toward the target is measured is no longer appropriate. This reflects that long-term targets, or geographically specific targets may sometimes be overtaken by events and that all targets may be impacted by scientific discoveries which change the understanding of what is the best approach.

34. Subsection (6) enables the Scottish Ministers to use some or all of the independent scientific advice and consultation that they have already received in the development of the Act proposals to inform their thinking about the targets to be set under this Part. Otherwise, that existing advice would have to be sought and provided afresh.

Inserted section 2H – Independent review

35. This section provides for ESS to act as an independent reviewing body providing quality assurance around the Scottish Ministers' reports on progress and their processes in connection with obtaining scientific advice.

36. ESS are to prepare and publish a report. As noted above, the expectation is that this will occur at the same time as the Scottish Ministers lay regulations or their own reports before the Parliament. Before publishing the report, ESS must send a copy of the report to the Scottish Ministers and lay a copy of the report before the Scottish Parliament.

37. Subsections (4) to (6) set out what the Scottish Ministers must do in response to the ESS report published under subsection (2). As soon as reasonably practicable after the publication of the report, the Scottish Ministers must lay a statement before the Scottish Parliament setting out any actions they intend to take as a result of the report. However, that requirement does not apply if a statement made under section 2F(4) has already set out the actions they intend to take as a result of the report. A statement under subsection (4) may also be combined with a statement under section 2E(4) or 2G(3).

[7] As there may occasionally be circumstances where it is not possible for reports to be produced to the exact timeframes.

38. The Scottish Ministers may, by regulations, change who is to act as the independent reviewing body under the section, but they must be a public body or office-holder who is independent of the Scottish Ministers.

39. Lastly, subsection (10) disapplies the duty in subsection (1)(b) (to assess the manner in which Scottish Ministers seek independent advice under sections 2F(2) and 2G(1)) in respect of the regulations setting the first set of targets. ESS are not, however, prevented from doing so.

Inserted section 2I – Application of this Part

40. Section 2I provides that Part 1 of the 2004 Act only applies in relation to the exercise of functions by public bodies or office-holders in or as regards Scotland which do not relate to reserved matters.

Section 2 – Reports on compliance with biodiversity duty

41. This section substitutes section 2A of the 2004 Act with a new section.

42. The existing section 2A of the 2004 Act requires every public body in Scotland to prepare and publish a biodiversity report triennially on the actions taken by the body. While the new section 2A also requires the preparation and publication of a biodiversity report, it limits the obligation to public bodies and office-holders that are specified in regulations made under subsection (4) (rather than all) and provides for reports to be produced in respect of the periods specified under the regulations (which must not be less than once every three years). This shift reflects that not all public bodies or office-holders perform actions which have an impact on biodiversity and also allows for different types of public body and office-holder to be required to report in respect of different timescales. The power in subsection (4) also allows the Scottish Ministers to specify information that must be provided in a biodiversity report.

43. By virtue of subsection (3), public bodies and office-holders may incorporate the biodiversity report within another report prepared or published by the body.

PART 2 – NATIONAL PARKS

Modification of aims and purposes of National Parks

Section 3 – Aims of National Parks

44. Section 3 of the Act concerns the four National Park aims, which are contained in section 1 of the National Parks (Scotland) Act 2000 ("the 2000 Act"). It makes some changes to the language of the aims themselves, elaborates on what is to be considered part of the aims, and introduces a duty to have regard to these aims.

45. Section 3(2) introduces a new section 1 of the 2000 Act, altering the structure of the section and adding more detail. The new section 1(1) contains the four modified National Park aims:

- The first aim is to conserve and enhance the natural and cultural heritage of the National Park area. While the language has been adjusted for consistency with the other aims, the effect remains the same.

- The second aim is to promote sustainable management and use of the area's natural resources, adding "management" to the original aim.
- The third aim is to promote public understanding and enjoyment of the area's natural and cultural heritage, simplifying the language of the aim and moving the reference to recreation to section 1(2) (see below).
- The fourth aim is to promote sustainable economic, social and cultural development of the area's communities, adding "cultural" to the list of areas for development. Cultural development goes beyond the focus on cultural heritage captured by the first aim by encouraging arts, literature and culture within their areas. This could include supporting community projects and creative sector networks.

46. New section 1(2) sets out in more detail what the National Park aims include, without precluding other measures which may be included in the aims or assist in the collective achievement of the aims. However, the listed inclusions specifically are to be considered part of the aims when applying section 9 of the 2000 Act. Section 9(1) provides that the general purpose of a National Park is to ensure that the aims are collectively achieved in a coordinated way, and is supported by section 9(6) which provides that when a National Park authority is exercising its functions it must act with a view to accomplishing the general purpose.

47. The inclusions listed in section 1(2) cover a wide range and some may be relevant to multiple aims. For example, mitigating and adapting to climate change and restoring and regenerating biodiversity may be relevant to the first and second aims. Encouraging recreation in the area may be relevant to the third and fourth aims.

- Subsection (2)(a) relates to restoring and regenerating biodiversity in the area of a National Park. The inclusion supports the existing duty on National Park authorities set out in section 1 of the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity when exercising their functions, as far as consistent with the exercise of the functions. The inclusion also complements the Scottish Biodiversity Strategy, which focuses on addressing biodiversity loss through nature restoration (defined in the Biodiversity Strategy as assisting the recovery of an ecosystem towards or to good condition as a means of conserving and/or enhancing biodiversity and ecosystem resilience) and regeneration (defined in the Biodiversity Strategy as assisting the recovery of ecosystem processes serving and/or enhancing biodiversity and ecosystem resilience, which may not necessarily be the original habitat type or include the original species communities).
- Another inclusion is mitigating and adapting to climate change. The role of National Park authorities in mitigating and adapting to climate change is also acknowledged by the application of the duties imposed by section 44 of the Climate Change (Scotland) Act 2009 on National Park authorities. Mitigating and adapting to climate change may involve various forms of nature restoration, for example peatland restoration, woodland restoration and other nature-based initiatives that help the area to minimise climate change and respond to its effects. Measures such as implementing low carbon transport initiatives and improving access routes for walking and cycling may also be relevant.

- Supporting access to and within the area is included in the aims but the necessary steps to support access to the National Park and within the National Park will depend on the needs and features of each individual National Park. However, measures to support access may include signage in different languages or mobility infrastructure where appropriate and possible.
- Encouraging recreation is also included in the aims by virtue of subsection (2). A National Park authority will have to consider what opportunities for recreation are currently available or appropriate within its area and consider how best to support or facilitate such activities.
- Another inclusion is to encourage sustainable and regenerative agriculture. While what constitutes sustainable agriculture is reasonably self-explanatory, regenerative farming is broadly any form of farming activity which both generates production and improves the environment. However, the terms are not defined to enable the definitions to adapt over time in light of changing practices and what is considered sustainable and regenerative in this context.
- The inclusions of promoting sustainable tourism and visitor management are related but distinct concepts. Sustainable tourism is not defined in the Act but it is intended to take its ordinary meaning as a form of tourism which actively considers and seeks to balance the environmental, social and economic impacts of tourism. Visitor management is also not defined and takes its ordinary meaning, so will require the National Park authority to consider how these other activities and the impact of visitors to the National Parks can be managed.
- The final inclusion is promoting sustainable economic growth and development activity which improves the health and wellbeing of individuals who visit, live and work in the area and supports the prosperity of communities within the area (including in relation to providing housing for people to live and work in the area). This inclusion captures the support that National Parks can provide to local communities to develop an economy which is beneficial for wellbeing beyond traditional economic measures.

48. New section 1(3) introduces a new duty requiring the Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder to have regard to the National Park aims when exercising their functions in a way which affects a National Park. National Park authorities work in partnership with a wide range of public bodies and other organisations operating within the National Park area to achieve National Park aims. While the bodies listed in subsection (3) also have a duty to facilitate the implementation of National Park Plans (see section 14 of the 2000 Act, as amended by section 8), the section 14 duty is in relation to a particular plan and measures while this duty in subsection (3) is broader and requires consideration of the aims more generally. The new duty requires all bodies to consider the aims of the National Park before carrying out any work within the National Park, not just in relation to matters included in a National Park Plan. However, this duty does not displace responsibilities that are the primary remit of a body. Rather, the aims must form part of the consideration but not necessarily be given priority. For example, local road authorities and Transport Scotland as the trunk road authority operating in an area of a National Park will need to balance other considerations (such as road safety, traffic flow, congestion and accessibility) against the National Park aims. In addition, subsection (4) makes it clear that the duty only applies to Scottish public authorities and cross-border public authorities so far as their functions exercisable in or as regards Scotland do not relate to reserved matters.

49. Sections 3(3) and (4) amend sections of the 2000 Act which refer to the National Park aims with the new section 1 numbering so that the references are accurate, and section 3(5) amends schedule 3 of the 2000 Act to use wording consistent with the new aims.

Policy statement on National Parks

Section 4 – Policy statement on National Parks

50. Section 4 amends the 2000 Act to insert a new section requiring Scottish Ministers to prepare and publish a National Parks policy statement. The statement must set out the policy direction and vision for National Parks, the proposed outcomes resulting from the policy direction and vision, and how new and existing duties on public bodies in relation to National Parks are expected to operate. National Park policy statements must be prepared and published in relation to each reporting period, which is the period of 10 years beginning with the day that section 3 of the Act comes into force and each subsequent period of 10 years.

National Park Proposals

Section 5 – Advice before making National Park proposals

51. Under section 2 of the 2000 Act, the Scottish Ministers may propose that an area be designated as a National Park if certain conditions are met, known as a National Park proposal. Section 5(3) inserts a new section into the 2000 Act to require advice to be provided to the Scottish Ministers before a National Park proposal is made and section 5(2) requires that the Scottish Ministers have regard to that advice before making a proposal.

52. In new section 2A of the 2000 Act, subsection (1) requires that before a National Park proposal is made, expert advice must be sought from such persons as the Scottish Ministers consider to have relevant expertise. The relevant expertise must be in relation to the National Park aims and the conditions for designation set out in section 2(2) of the 2000 Act. The advice sought must cover the matters set out in subsection (2), which are:

- the management needs of the area,
- whether designation of the area as a National Park could improve the area's management,
- whether designation of the area as a National Park could assist in meeting the special needs of the area, and
- anything else that the Scottish Ministers consider appropriate (as long as it relates to the designation of a National Park).

53. As soon as reasonably practicable after the advice has been provided, the Scottish Ministers must lay a copy of the advice before the Scottish Parliament (subsection (3)).

Reports on National Park proposals

Section 6 – Choice of reporter for National Park proposals

54. Section 6 amends section 3 of the 2000 Act. Section 3 of the 2000 Act sets out that Scottish Ministers may require SNH or any other public body appearing to them to have expertise relevant to the National Park aims, to consider a National Park proposal and report to Scottish Ministers on it. This means that only a public body can be chosen to consider a

National Park proposal and report on it. The amendments made by section 6(2) allow the Scottish Ministers to appoint any person or public body to undertake consideration and reporting, as long as they have expertise relevant to the National Park aims.

55. The remainder of the changes made to the 2000 Act by section 6 are as a result of the change of framing of section 3(1) of the 2000 Act. Primarily, they change language of "requirement" to "appointment" to recognise that persons other than public bodies could not be "required" to undertake a consideration of a National Park proposals and produce a report.

Definitions for the National Parks (Scotland) Act 2000

Section 7 – Definitions for the National Parks (Scotland) Act 2000

56. Section 7 of the Act adds two definitions to section 35 of the 2000 Act.

57. The first definition is of "biodiversity". "Biodiversity" as used in the 2000 Act has the same meaning as "biological diversity" in the United Nations Environmental Programme Convention on Biological Diversity (as amended from time to time or in any United Nations Convention replacing that Convention). The current definition in the Convention is "the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems".

58. The second definition is of "cultural development", which is used in the National Park aims. The definition is not exhaustive but lists some activities that are considered to constitute cultural development, including tangible and intangible cultural heritage to ensure that language, skills, knowledge, practices and festive events can be captured. Creative industries are also listed, as are activities which reflect the diversity and distinctiveness of the area and its communities, to reflect the importance of place, community, and landscape in shaping cultural expression.

Duties in respect of National Parks

Section 8 – Duty to facilitate implementation of National Park Plans

59. Section 8 of the Act makes changes to section 14 of the 2000 Act. Section 14 imposes a duty on Scottish Ministers, National Park authorities, local authorities and any other public body or office-holder to have regard to a National Park plan when exercising functions so far as affecting a National Park.

60. A National Park Plan is a document prepared under section 11 of the 2000 Act by a National Park authority in collaboration with public bodies and other partners operating with the National Park area. They are the management plans for National Parks, setting out the authority's policy for managing the National Park in question, as well as co-ordinating its functions and those of other public bodies and office-holders in connection with the National Park, with a view to accomplishing the general purpose of National Parks. While the National Park authority is responsible for producing the National Park Plan (based on consultation with partners and communities), they are not always able to implement all parts of the plan directly and must use their convening powers and capacity to bring together partners to ensure that all those with responsibility for an action within the National Park Plan are able to implement the actions.

61. Section 8(3) changes the duty's obligation from having regard to the National Park Plan to facilitating the implementation of the National Park Plan. The duty to "have regard to" the National Park Plan did not require any action or assistance from the listed bodies in implementing the National Park Plan, which has slowed or prevented implementation. The new duty to "facilitate the implementation of" the National Park Plan requires public bodies to cooperate with and support the execution of the Plan, whether by taking active steps or removing barriers to implementation. How each body will facilitate the implementation of the National Park Plan will be specific to the body and the circumstances but involves the way in which the body uses its capacity, resources and strategic approach to help implement the National Park Plan and may at times include financial contributions. For example, the Cairngorms National Park Plan includes an action to restore 6,500 hectares of peatland by 2027 which has a number of public bodies involved (the National Park authority, Skills Development Scotland, Highlands and Islands Enterprise and SNH). Each public body will determine how best to organise their own resources and strategic approach to help execute this action.

62. However, the duty to facilitate the implementation of a National Park Plan is not an absolute duty placed on a body. Section 8(4) creates a new section 14(2) of the 2000 Act. This new provision applies the duty only insofar as it is consistent with the proper exercise of the body's other functions (and within devolved competence). New section 14(3), also inserted by section 8(4) of the Act, makes it clear that the duty only applies to Scottish public authorities and cross-border public authorities so far as their functions exercisable in or as regards Scotland do not relate to reserved matters.

National Park authorities as local authorities for access rights

Section 9 –Meaning of local authority for the purpose of access rights

63. Section 9 of the Act makes adjustments to the Land Reform (Scotland) Act 2003 ("the 2003 Act") and the 2000 Act to allow new National Park authorities to be local authorities for the purposes of land access rights.

64. Part 1 of the 2003 Act sets out land access rights and section 32 (interpretation of Part 1) makes the National Park authorities which existed at the time of commencement local authorities for land access purposes. This means that any new National Park which is designated after the commencement of the section would not be able to be the local authority for access rights purposes and this would instead fall to the local council.

65. Section 9(2) amends the 2003 Act to add new National Park authorities which have been specified in the designation order as being the local authority for the purpose of this Part to the section 32 definition of "local authority". Section 8(4) amends section 7 of the 2000 Act to add to the information required in a designation order to require that a designation order must specify whether the National Park authority is a local authority for the purposes of Part 1 of the 2003 Act. The 2000 Act is also amended in subsection (5) to include the specification as a local authority in the information which cannot be modified or revoked without additional process in section 30(2)(a)(iii). A specification as a local authority for the purposes of the 2003 Act may also be added to a designation order using section 30 of the 2000 Act.

Enforcement of National Park byelaws

Section 10 – Power to make regulations for the issuing of fixed penalty notices

66. Section 10 of the Act contains an enabling power to introduce a fixed penalty notice regime for the enforcement of National Park byelaws. For the purposes of this new section, a fixed penalty notice is a notice specifying a sum of money that may or must be paid as an alternative to prosecution for an offence (inserted section 26A(13)).

67. Schedule 2, paragraph 8 of the 2000 Act gives National Park authorities the ability to create byelaws in order to protect the natural and cultural heritage of the National Park, prevent damage to the land, and secure public enjoyment and safety in the National Park. Paragraph 9(3) of schedule 2 provides that sections 202 to 204 of the Local Government (Scotland) Act 2003 apply to byelaws made by National Parks, and section 203 provides that contravening a byelaw is an offence which is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

68. National Park authorities use tools such as verbal warnings and warning letters before any formal enforcement is taken. Generally, National Park byelaws can only be formally enforced through the criminal justice system i.e. reports to the Crown Office and Procurator Fiscal Service ("COPFS"). COPFS has a range of options for dealing with reported offending, including taking no action, issuing warning letters, imposing financial penalties, diversion from prosecution, and commencing court proceedings. Fixed penalty notices issued by National Park authorities are not currently part of this enforcement regime, although the Loch Lomond and The Trossachs National Park authority does have the ability to issue fixed penalty notices for littering and fly-tipping offences under the Environmental Protection Act 1990 (sections 33A(11A)(b) and 88(10)(b)).

69. Section 10 inserts a new section 26A into the 2000 Act, allowing the Scottish Ministers to make regulations for or in connection with the issuing of fixed penalty notices for offences against National Park byelaws. For the purposes of this new section, a fixed penalty notice is a notice specifying a sum of money that may or must be paid as an alternative to prosecution for an offence (subsection (13)).

70. Subsection (2) requires the regulations to specify both the byelaws in respect of which fixed penalty notices may be issued and the persons (or categories of persons) who may issue fixed penalty notices. Subsection (3) sets out the persons who may be specified as able to issue fixed penalty notices, including the persons, or categories of persons, that a National Park authority has authorised in writing for the purpose of issuing fixed penalty notices. These may be, for example, park rangers. The Scottish Ministers may also specify such other persons or categories of persons they consider appropriate. Subsection (4) lists the information which must be included in a fixed penalty notice provided for by regulations. Other things that the regulations may provide for, without limiting what the regulations may cover, are listed in subsection (5). In particular, the regulations may confer powers to enter land (other than homes) for or in connection with issuing a fixed penalty notice (subsection (5)(c)) and limit the penalty that may be specified in regulations for a fixed penalty notice to a fine which may not exceed level 2 on the standard scale (subsection (5)(f)). The regulations may also create offences relating to the obstruction of a person who is exercising functions in relation to fixed penalty notices and a failure to provide information requested in connection with a fixed penalty notice (subsection (5)(s)). The maximum penalty that may be imposed in relation to those offences is a fine of not more than level 2 on the standard scale (subsection (6)).

71. The Scottish Ministers must consult such persons as they consider to be interested in or affected by the issuing of fixed penalty notices for National Park byelaw offences before making regulations (subsection (7)). In circumstances where the question is just whether a byelaw should be included in the regulations as a byelaw in respect of which a fixed penalty notice may be issued, subsections (8) and (9) allow for the consultation obligation in subsection (7) to be delegated to the relevant National Park authority. Where the consultation has been delegated to a National Park authority, subsection (9)(b) allows the Scottish Ministers to require the National Park authority to provide the Scottish Ministers with a report on the consultation. Subsection (10) allows the Scottish Ministers to also consult if they so wish, despite delegating a consultation to a National Park authority under subsection (9).

72. Subsection (11) contains the procedure to be applied to different types of regulations. Subsection (11)(b) makes the regulations subject to the affirmative procedure in most circumstances. However, subsection (11)(a) applies the negative procedure in two circumstances: (i) when the regulations are removing a reference to a byelaw which has been revoked, and (ii) when the regulations are specifying a byelaw which replaces a byelaw (with or without modification) and has substantially the same effect. A replacement of a byelaw that substantially modifies its effect will not fall under subsection (11)(a)(ii) and will need to be subject to the affirmative procedure. Subsection (12) allows for regulations to make incidental, supplemental, consequential, transitional, transitory or saving provision and different provision for different purposes.

73. Definitions for the purposes of the section are contained in subsection (13).

PART 3 – DEER MANAGEMENT

Background and overview

74. The management of deer in Scotland is principally regulated by the Deer (Scotland) Act 1996 ("the 1996 Act"). Other legislation, such as the Wildlife and Countryside Act 1981 and the Animals (Scotland) Act 1987 may also be relevant in certain circumstances.

75. Most of the changes made implement (in whole or in part) recommendations of the Deer Working Group[8].

Aims and purposes of deer management

Section 11 – Aims and purposes of deer management

76. Section 11 modifies section 1 of the 1996 Act, which concerns the aims, purposes and other functions of SNH[9] in relation to the management and control of deer. It replaces the existing subsection (1)(a) of the 1996 Act to make a number of changes (and modernise the language in the process), adds a new consideration into subsection (2), and makes some other minor adjustments.

[8] The Deer Working Group was established by the Scottish Government in 2017. It reviewed the existing arrangements of the systems in place for the management of deer and made 99 recommendations. Its report '[The management of wild deer in Scotland: Deer Working Group report]' may be found at: https://www.gov.scot/publications/management-wild-deer-scotland/

[9] NatureScot (see the notes on interpretation at the beginning of these explanatory notes).

77. The main change in subsection (1)(a) of the 1996 Act is the introduction of new aims of safeguarding the public interest in so far as it relates to the management and control of deer and ensuring the effective and humane control of deer. Subsection (2) of the 1996 Act likewise introduces the requirement for SNH to take account of the public interest in the appropriate and sustainable management and effective control of deer.

78. The Act does not include a definition of the "public interest" for these purposes. Broadly speaking, it encompasses the collective needs, values and interests of society as a whole rather than those of individuals or specific groups. The expression is to be understood and applied contextually; what constitutes the public interest in different situations may be different. It may also evolve and change over time. For example, at the moment a significant interest for the public at large is the concern in relation to biodiversity loss and climate change. However, other public policy considerations may be relevant to any given decision, and this requires SNH to take a holistic approach to its decision making in relation to deer.

79. The inclusion of the public interest element in subsection (2), in particular, requires SNH to strike a balance between the specific individual interests and the public interest. The wording of the new addition does, however, recognise that the other, more specific, interests listed in subsection (2)(a) to (d) can also form a part of the public interest.

80. The other change to subsection (2) is the inclusion of a reference to the "environment" in paragraph (a). While natural heritage is defined in section 45 of the 1996 Act in an inclusive and broad manner, the definition's focus on plants, animals and features may be construed as being concerned with just those things on the land on which deer is managed. For example, section 1(2)(a) of the 1996 Act already allows action to be taken in connection with the impact of deer on biodiversity, but the context will tend to make that appropriate in a particular place. For the purposes of the new element being added by the Act, the wider natural environment (and within that, the concept of overall biodiversity) are also to be of relevance to the exercise of functions. For example, SNH will need to consider and formulate deer management policy taking account of the cumulative impact of deer across Scotland and the impact that the populations may have on, for example, biodiversity and carbon emissions (both regionally and nationally).

81. Subsection (3) of the Act confirms that the aims and purposes listed in subsection (1)(a) are functions of SNH for the purposes of the 1996 Act. Subsection (4) of the Act updates the section title to better reflect the content of the section as amended.

Membership of advisory panels

Section 12 – Scottish Natural Heritage representation on advisory panels

82. Section 4 of the 1996 Act provides that SNH may, with the approval of the Scottish Ministers, appoint a panel for any locality. SNH may refer any matter relating to the exercise of its deer functions[10] to the panel and the panel is obliged to provide advice.

83. Section 12 of the Act enables members of SNH (or SNH staff) to be appointed as a member of such a panel and so take an active part in proceedings and decision-making. Previously, members of SNH could only sit on panels as an observer.

[10] As defined in section 1(1A) of the 1996 Act.

Code of practice on deer management

Section 13 – Code of practice on deer management

1. Section 5A of the 1996 Act requires SNH to prepare and publish a code of practice on deer management. In conjunction with the addition of new grounds for when SNH may intervene in the deer management of an area (see paragraph 89), the Act amends section 5A to require SNH to set out the circumstances in which SNH may intervene.

2. Section 5B of the 1996 Act currently requires SNH to review compliance with the code of practice on deer management on a three-year cycle. Section 13 of the Act changes the approach to such reviews and enables SNH to conduct reviews at any time. However, it also provides that SNH must carry out a review if requested to do so by the Scottish Ministers, at an appropriate time after a change to the code of practice and at least once every 10 years.

3. The requirement to carry out a review at an appropriate time after a change to the code of practice does not include a timeframe. This reflects that in some cases the impact of changes will be ascertainable almost immediately. But in other cases it may take several years for changes to the code of practice to bed in and produce sufficient evidence. The provision therefore requires SNH to make a judgement as to when a review will be suitable.

4. The requirement to carry out a review not less than once every 10 years represents a backstop position which will ensure that, even if no changes are made to the code of practice, compliance is still formally reviewed. The expectation is that SNH will, in practice, carry out such reviews somewhere between 5 to 10 years after the preceding report.

5. When carrying out a review, SNH must consult those who have an interest in deer management and those with practical experience of deer management (new subsection (1B)). Details of this consultation must be published, along with any consultation documents or materials, as well as the results of the consultation (including views expressed by those consulted under new subsection (1B)).

Deer management plans, control agreements and control schemes

Section 14 – Grounds for intervention

6. Section 14 adds two new sections into the 1996 Act; sections 6ZA and 6ZB. These sections replace sections 6A(1) to (3) and 7(1) and (2)[11], which both concern the situations where SNH may seek to intervene in deer management or control activities on an area of land by way of a deer management plan, control agreement or control scheme. Where the grounds set out in the new sections are met, the sections apply and this provides the basis for SNH to take action under section 6A, 7 or, in certain circumstances, section 8. It also provides the basis for a person to request action where deer are not being managed under section 7A.

7. Prior to the changes made by the Act, the circumstances in which SNH could seek to enter into a deer management plan or control agreement under section 6A or 7 of the 1996 Act related to where ‘deer or steps being taken or not being taken for the management of deer are causing, or are likely to cause, damage or injury in some way or have become a danger (or potential danger to public safety) and the management of those deer is necessary for preventing such damage or injury, remedying it or preventing the danger’. The references to steps being

[11] When read with the corresponding amendments to those sections in section 16 and 18(2).

taken (or not being taken) captured circumstances where deer management (or the failure to undertake certain management activities) are, of themselves causing problems. For example, erecting deer fencing may detrimentally affect the movement of other animals or a failure to erect it may mean that deer have access to sensitive areas of woodland etc.

8. Section 6ZA restates these circumstances (describing them as grounds for intervention) relating to damage or injury by deer and section 6ZB sets out a new ground which relates to nature restoration activities (described further below). The two sections are intended to ensure consistency, when applicable, for SNH intervention for the purposes of sections 6A, 7 or 8 of the 1996 Act and act as a trigger for requests for action under section 7A. It is also referred to for certain SNH authorisations.

9. Section 6ZB builds on the existing grounds relating to acting to prevent damage to the public interests of an environmental nature[12] to enable SNH to act where deer (or steps taken or not taken for the purposes of deer management) are likely to prevent or reduce the effectiveness of a project, work or natural process that—

- preserves, protects, restores enhances or otherwise improves the natural heritage or environment, and
- is for, or contributes to, a relevant target, strategy or plan relating to the environment, climate change or biodiversity that applies in Scotland[13].

10. Subsection (3) sets out when a target, strategy or plan is relevant. In the case of a target, it is where it is set in, under or in pursuance of an enactment. That means that target has to be set in, or as a result of a duty contained in an enactment (that is, an Act of Parliament (UK), an Act of the Scottish Parliament or a statutory instrument (usually in the form of regulations or an order)). In the case of strategies and plans, to be relevant it must be required by an enactment or be published by the Scottish Ministers or a body like SNH (NatureScot), the Scottish Environment Protection Agency or similar.

11. Accordingly, there may be a broad range of situations where this section will apply. For example, it may relate to the establishment of woodland or other vegetation through non-natural means to assist with woodland expansion, biodiversity enhancement, flooding and drought management, improving forest resilience through diversification of species, or peatland management and restoration, including actions to support restoration such as ditch blocking. However, it will be necessary to show a connection to a statutory duty or a public plan or strategy.

12. To help owners and occupiers of land to understand and anticipate when SNH may decide to intervene, section 13(2) requires SNH to include the circumstances in which it may intervene in the Code of Practice on Deer Management.

[12] See section 6A(2) and 7(1)(a)(ia) of the 1996 Act, prior to their restatement in section 6ZA(2)(ii).
[13] Such as the biodiversity strategy designated under section 2 of the Nature Conservation (Scotland) Act 2004, the climate change plan laid before the Scottish Parliament in pursuance of section 35 of the Climate Change (Scotland) Act 2009, or a target set under section 2C of the 2004 Act (as inserted by section 1 of the Act).

Section 15 – Deer management plans

13. Section 15 of the Act substitutes a new section 6A into the 1996 Act. Both the original and the new section 6A relate to deer management plans.

14. As set out in subsection (2), a deer management plan is a plan setting out what measures the owners or occupiers of the area of land consider should be taken for the management of deer on the land, the timescale for taking such measures, who is to undertake the measures and any additional matters that SNH consider necessary to be part of the plan. The plan has to be approved by SNH.

15. The principal change effected by the new section 6A is, via its interaction with section 6ZB, the introduction of the nature restoration ground as a basis for seeking that the owners or occupiers of a particular area of land prepare and implement a deer management plan. The grounds for intervention which were contained in section 6A(2) and (3) prior to their restatement by the Act, continue to be relevant by virtue of section 6ZA.

16. The deer management plan process is initiated by SNH serving a notice on the relevant owners and occupiers (defined as those who SNH consider to have a sufficient interest in, or control over the use of land, as to necessitate their involvement with deer management measures), requiring them to submit a deer management plan. The notice must set out why SNH are satisfied that the plan is required, which must be by reference to the grounds set out in section 6ZA or 6ZB, and any aim or outcome that SNH believes it is necessary for the plan to achieve. This might be as simple as a reduction in deer numbers or a more detailed set of outcomes relating to biodiversity in the area.

17. The notice must also specify a date by which the plan must be prepared and submitted to SNH (which cannot be less than three months). It is open to SNH to agree to the plan being submitted later which may be relevant, for example, where there are ongoing discussions over what is appropriate or there has been an event such as a change of ownership of the land in question.

18. Section 6A no longer contains a specific requirement for SNH to have regard to the code of practice on deer management when considering whether it is satisfied that the conditions necessitating seeking a deer management plan are met. However, the overarching duty to have regard to the code when exercising its functions under the 1996 Act still applies[14].

Section 16 – Control agreements

19. Section 16 makes a number of changes to section 7 of the 1996 Act. Section 7 provides for SNH to enter into control agreements with relevant owners and occupiers (defined as those who SNH consider to have a sufficient interest in, or control over the use of land, as to necessitate their involvement with deer management measures).

20. A control agreement is an agreement between relevant owners and occupiers of an area of land and SNH which sets out the area in question, the control measures to be undertaken, who is to undertake them, time limits for taking action and actions to be taken during each 12 month period for which the agreement has effect. A control agreement may relate to an area of land with several different owners or occupiers.

[14] See section 5A(12)(b).

21. As with deer management plans, the principal change made to section 7 is, via its interaction with section 6ZB, the introduction of the nature restoration ground as a basis for seeking that the owners or occupiers of a particular area of land agree to and implement a control agreement. The grounds for intervention (contained in section 7(1) prior to its amendment) continue to be relevant by virtue of section 6ZA.

22. Subsection (3) of section 7 of the 1996 Act provides an additional ground for intervention where SNH consider that it is necessary for deer to be completely excluded from an area. Section 16(3) of the Act removes the requirement for SNH to have regard to the code of practice on deer management when considering whether this ground applies (but the overarching duty to have regard to the code when exercising its functions under the 1996 Act still applies[15]).

23. Section 16(4) of the Act replaces section 7(4) of the 1996 Act and streamlines the process for how SNH give notice and engage with the relevant owners and occupiers. Whereas under the previous process SNH had to give notice and then consult the owners and occupiers as to the measures that may be necessary before preparing an agreement (on the back of the agreed measures), the process now requires SNH to prepare a draft agreement first in order to provide a structured basis for the consultation. SNH does, however, have some latitude about how to approach this on each occasion. It could, for example, give notice and send the draft agreement at the same time or separately, depending on the circumstances. In some cases, there may already have been discussions around what is appropriate before the statutory process is started. However, the process must be done within three months of SNH forming a view under section 7(1) or (3) of the 1996 Act as to what measures should be taken.

24. The amendments in subsections (5) to (7) of the Act are consequential adjustments to section 7 necessitated by the other changes described above.

25. The new subsection (7A) of section 7 of the 1996 Act requires SNH to publish the outcome of a review under subsection (7) as soon as reasonably practicable after completing the review, and new subsection (8) deals with the situation where a review of the control agreement discloses that compliance with the agreement is insufficient. In those circumstances, SNH must either proceed with making a control scheme under section 8 or advise the Scottish Ministers why it is not appropriate to do so at the present time. For example, it may be that undertakings from the owners or occupiers or a variation of the agreement mean that taking the step of making a scheme is premature.

Section 17 – Right to request action where deer are not being managed

26. Section 17 inserts section 7A into the 1996 Act which confers a right for a person to request that SNH exercise its functions under sections 6A or 7 in relation to the management of deer. This applies to a person who believes the statutory grounds for intervention in section 6ZA(2) and (3) are met, and who is directly affected by the damage or injury caused by or danger posed from deer.

27. In making a request under subsection (1), the requester must include reasons for their belief that the grounds in section 6ZA(2) and (3) are met. After a request is made, SNH must follow the process in subsection (4) to decide if it is satisfied that the grounds are met, decide whether to exercise its functions under section 6A or 7 and to inform the person of its decisions and any action SNH proposes to take.

[15] See section 5A(12)(b).

28. Subsection (3) allows the Scottish Ministers to modify subsection (2) by regulations to add, remove or adjust the information that is to be included in a request. Regulations under this section are subject to the affirmative procedure.

29. It is worth noting that nothing in this section limits SNH's ability to exercise its powers under section 10 of the 1996 Act (emergency measures to prevent damage by deer) if it considers that to be the most appropriate course of action.

Section 18 – Control schemes

30. Section 8 of the 1996 Act provides for SNH to make control schemes in respect of particular areas of land (known as control areas, see section 6 of the 1996 Act). Control schemes represent the most significant form of intervention in deer management and enable SNH to impose deer management measures on owners and occupiers of land and, if the owner or occupier does not comply with the scheme, take action itself and recover the costs from the owner or occupier.

31. Section 18 of the Act makes several adjustments to the process for making a control scheme and clarifies the reach and operation of control schemes. It also provides for the registration of a control scheme (and any variation or its revocation) against the title of the land in question, so binding successive owners and occupiers of the land to comply with the scheme.

32. Section 18(2)(a) of the Act makes an adjustment to section 8(A1) that is consequential on changes made to section 7 of the 1996 Act by section 16 of the Act.

33. Subsection (2)(b) of the Act removes the requirement in section 8(1) of the 1996 Act that SNH must have regard to the code of practice on deer management when considering whether action is necessary under section 7. However, the overarching duty to have regard to the code when exercising its functions under the 1996 Act still applies.[16] It also makes a consequential amendment to subsection (1) to reflect the adoption of sections 6ZA and 6ZB as containing the grounds for intervention that must apply.

34. Subsection (2)(c) repeals section 8(2) of the 1996 Act which limited the use of control schemes in connection with nature restoration activity. This has the effect of enabling SNH to make a control scheme whenever it has not been possible to secure a control agreement or where there has been inadequate compliance with such an agreement.

35. Subsection (2)(d) substitutes a new subsection (4) into section 8. The new subsection:

- reiterates that different measures may be taken by different owners or occupiers of land within a control area. So, for example, one owner may have to erect fencing along a boundary while another may have to undertake a cull of deer.
- confirms that a control scheme may relate to a particular owner or occupier within a wider control area contained in a control agreement. This is likely to be relevant where one or more owners or occupiers in a control area have not been engaging with SNH or refusing to comply with the terms of a control agreement. The control scheme can therefore target the land owned or occupied by that person and require compliance, failing which SNH can take the necessary action and recover the costs under section 9 of the 1996 Act (as replaced by section 19 of the Act).

[16] See section 5A(12)(b).

- allows a control scheme to provide a means to extend any time period prescribed in the scheme.

36. Subsection (3) replaces schedule 2 to the 1996 Act with a new schedule 2. This covers the process for making a control scheme, its validity, registration and appeals. It has to be read alongside section 8 of the 1996 Act itself.

37. Part 1 of schedule 2 deals with application and interpretation of the schedule. Paragraph 1 applies the schedule to any process for making, varying or revoking a control scheme.

38. Paragraph 2 deals with the key terminology used in schedule 2. The key points are:

- As the process for making, varying and revoking a control scheme is the same in most respects, in schedule 2, the expression "the proposal" is used to refer to all three.
- The word "register" is defined to cover registration in both the Land Register and the General Register of Sasines as it is possible that some titles to land that may be affected by a control scheme may still be recorded in the General Register of Sasines.
- A "relevant person" is defined as an owner or occupier for the time being of an area of land upon whom a control scheme is proposed to be imposed or actually is already in place (in cases where the proposal is dealing with a variation or revocation of an existing scheme). It is also possible for a person to be a relevant person in a case where the land that the person owns or occupies is part of a control area of a control scheme, but the person is being added by means of a variation. This might arise, for example, where a person was not originally thought to have any interest in deer management measures, but it has subsequently come to light that it is appropriate for them to have to carry out some activity in connection with the scheme. It might also occur where an owner or occupier changes and agrees with SNH to a variation of the appropriate measures. Finally, a relevant person may be an owner or occupier who, in the opinion of SNH, are (or are likely to be) significantly affected by the proposal even though the person is not subject (or proposed to be made subject) to a requirement under the control order. This is likely to be people living within the area who are impacted by deer populations but who do not have any management capabilities or responsibilities in relation to the land impacted by the control scheme.

39. Part 2 of schedule 2 deals with the process to be followed for making, varying or revoking a control scheme ("the proposal"). While SNH lead the process, an important part of it is the Scottish Ministers considering any objections and deciding whether to give approval to a scheme being made, varied or revoked.

40. Paragraph 3 requires SNH to give notice of the proposal to each relevant person. The notice must provide details of the proposal (including a copy of any draft control scheme or, in the case of a variation, the control scheme as it is proposed to be varied). The notice must also inform the person that objections to the proposal may be made to the Scottish Ministers within 28 days of the notice being served[17] and provide details of how such objections are to be made.

[17] For details about how notices are to be served, see section 16 of the 1996 Act (as amended by the Act).

Paragraph 3 also requires SNH to publish a notice with details of the proposal, which must include the area affected, the date of first publication of the notice, specifying where a copy of the scheme and the map referred to in it may be inspected and stating that objections can be made by relevant persons within the period of 28 days of the first publication of the notice.

41. While the usual approach will be to serve and publish notices under paragraph 3 at the same time, if the period for objections is different (for example where notice is served before publication occurs), it is the later date that will apply.

42. It is worth noting that only relevant persons can object. The publication requirement does not entitle persons who are not going to be part of the control scheme or who are not (or are not likely to be) significantly affected by it to have objections considered. Of course, that does not prevent other people from making representations, including to the effect that they should be a relevant person, but the Scottish Ministers are not obliged to consider them.

43. Paragraph 5 sets out the steps that the Scottish Ministers are to follow in relation to objections. The first step is to consider whether the objection is concerned with the process followed by SNH or whether it is related to the substantive content of the scheme. If an objection deals with both, the Scottish Ministers can deal with the procedural issues and substantive issues as if they were separate objections. Further, if an objection is late, doesn't meet the requirements set out in the notice or the Scottish Ministers are satisfied that it is frivolous or vexatious, they may disregard it. Further, the Scottish Ministers may require a person who is making an objection to provide the grounds for it in writing. A failure to comply with such a requirement will mean that the objection may not be considered.

44. Objections which relate to process will always fall to be considered by Scottish Ministers. If the objection is substantive, the Scottish Ministers may choose to consider it as it stands or, if they feel they need advice on its merits, they can refer the question to an expert, or experts, appointed for that purpose to advise on the objection. If there are multiple objections, the same expert or experts can be asked to consider some or all of them.

45. Where Scottish Ministers do not require advice, they may proceed with considering the substantive objection. However, if they have asked for advice, they must consider the objection having had regard to the advice received. They are not bound to follow the advice.

46. Once all objections (if any) have been considered, the Scottish Ministers may confirm the proposal as it was originally proposed, confirm the proposal with modifications or reject the proposal. But, if the Scottish Ministers wish to make modifications they must give notice of the modification to the relevant owners and occupiers and either obtain the consent of those persons or consider any further objections that may be made. The process for considering objections at this stage is the same, but the period for making the objections is shorter: 14 rather than 28 days. The Scottish Ministers must confirm or reject the proposal within 6 months after the expiry of the period for objections mentioned in paragraph 3(b)(iv) (28 days beginning with the date of first publication of the notice). However, that 6-month period may be extended by giving notice to SNH and any relevant person. The notice must include the reasons for the extension and an indicative date for a decision.

47. Paragraph 12 of schedule 2 enables the Scottish Ministers to appoint an expert or experts for the purpose of asking for advice in relation to objections. An expert may be appointed for a particular objection or objections[18] or as a standing expert to consider objections from several schemes. The provision also allows regulations to be made about the terms and conditions of appointees.

48. Part 3 of the schedule deals with the making, variation or revocation of control schemes, how they are to be registered and appeals. However, it should be read with section 8 of the 1996 Act (as amended).

49. Paragraph 13 requires SNH to give notice that a control scheme has been made, varied or revoked to all relevant persons. That notice must also indicate the date by which appeals against the scheme, variation or revocation are to be made. An appeal against the scheme may only be made by a relevant person falling within paragraphs 2(c)(i) and (ii) (owners and occupiers upon whom a control scheme proposes to, or does, impose a requirement, and so does not include owners or occupiers who are significantly affected by the proposal, but not subject to requirements under it). SNH must publish the control scheme, the scheme as varied, or as the case may be, a notice that the scheme has been revoked, in such a manner as it thinks fit (which may be on its website). SNH are also to proceed with registering the control scheme against the titles to the land in the control area (whether in the Land Register or in the General Register of Sasines). A control scheme has effect, and must be complied with by the relevant persons, from the time when it is confirmed by the Scottish Ministers (see section 8(7) of the 1996 Act).

50. A relevant person who is aggrieved by the decision to confirm the making, variation or revocation of a control scheme, or any terms of conditions of such a scheme or variation, may appeal to the Scottish Land Court. However, as noted above, only relevant persons falling within paragraphs 2(c)(i) and (ii) may appeal to the Scottish Land Court. Appeals have to be made within 28 days of service of the notice informing the relevant person of the confirmation of the making, variation or, as the case may be, revocation of the scheme. Appeals are to consider the merit of the scheme, variation or revocation, rather than a review of the process. On an appeal the Land Court may affirm the scheme, direct SNH and the Scottish Ministers to revoke it, or make such other order as the Land Court thinks fit. For example, the Land Court may decide to suspend the operation of a control scheme (or its variation or revocation) or a term or condition of a scheme, while considering the appeal.

51. Paragraph 14(1) provides that the making of a control scheme, its variation or revocation is not open to be challenged otherwise than by an appeal under paragraph 14(2). This reflects the current position in the 1996 Act.

Section 19 – Recovery of costs and expenses

52. Section 19 of the Act replaces section 9 of the 1996 Act with a new section 9 which extends the costs and expenses that SNH may recover in fulfilment of a control scheme.

53. Subsection (1) enables SNH to recover any expenses incurred by it in respect of the registration of a control scheme or the variation or revocation of such a scheme. While the primary costs will be the registration fees themselves, incidental costs such as those relating to any property searches required to establish how title is held may also be recovered. The

[18] By virtue of section 6(c) the Interpretation Act 1978, the single includes the plural here and so covers both a single objection and multiple objections.

expenses may be recovered from any or all of the owners and occupiers who are subject to the scheme. This ability to recover from specific persons may be particularly relevant where a control scheme has been necessitated by one or more owners and occupiers refusing to agree to or comply with a control agreement.

54. Before taking steps to recover the costs under subsection (1), SNH must (by virtue of subsection (2)) prepare and send to the owner or occupier from whom it is seeking to recover costs a statement detailing the registration fees and any other expenses incurred in connection with the registration. An owner or occupier who is aggrieved by the statement has 28 days to appeal to the Scottish Land Court against the statement and the Land Court may, if it considers it equitable to do so, vary the amount that SNH may recover from the person who appealed.

55. Subsections (3) and (4) enable SNH to recover any excess expenses[19] incurred by it in the performance of its duty under section 8(8) of the 1996 Act (which relates to SNH taking steps to carry out a requirement imposed under a control scheme that an owner or occupier has failed to carry out themselves) or section 10(4) (which relates to measures taken by SNH to prevent damage by deer).

56. As with recovering expenses under subsection (1), before taking steps to recover the expenses SNH must (by virtue of subsection (5)), provide the owner or occupier from whom the expenses are to be recovered with a statement detailing the expenses incurred, the amount received in respect of the sale of deer and the amount recoverable from the owner or occupier (which may not be the whole amount of the expenses incurred if action is taken in respect of a wider control area or multiple owners and occupiers). Again, as with recovery under subsection (1), an owner or occupier who is aggrieved with the statement has 28 days to appeal to the Scottish Land Court and the Court may, if it considers it equitable to do so, vary the amount that SNH may recover from the person who appealed.

57. SNH may only waive the excess costs incurred in connection with the performance of its duty under section 8(8) if it has obtained the approval of the Scottish Ministers to do so. However, they do not require approval in respect of waiving registration fees or the performance of their duties under section 10.

Section 20 – Limitation of criminal liability

58. Section 20 of the Act modifies section 14 of the 1996 Act. Under section 14(1), and subject to subsections (2) to (4), actions taken at the direction of SNH for the purposes of a control agreement, a control scheme or section 10 are exempted from criminal liability. The exceptions in subsections (2) to (4) are for offences under section 17(3) (killing or injuring a deer by a method other than shooting) and section 18(1) (killing or injuring a deer at night).

59. Section 20(2) adds control agreements and control schemes to section 14(2) of the 1996 Act so that the section 17(3) offences as they relate to SNH employees are all in one place. These are the same disapplications of the exemption from criminal liability in relation to SNH employees which exist under the original section 14, but have been grouped together in one subsection.

[19] SNH may be able to cover some or all of its costs from the sale of any deer taken or killed in fulfilment of its duty. However, where that does not provide sufficient funds, it may be necessary to recover the excess costs from the owner or occupier in question.

60. Section 20(3) substitutes subsection (3) to add a replacement subsection (3) and a new subsection (3A). Subsection (3) covers the section 18(1) offence as it relates to SNH employees, only disapplying the limitation of criminal liability when the act is carried out in pursuit of a control agreement or a control scheme (not section 10). The disapplication of the limitation of criminal liability for SNH employees in relation to section 18(1) is therefore narrower than the disapplication of the limitation of criminal liability for SNH employees in relation to section 17(3). Subsection (3A) deals with the disapplication of the limitation of criminal liability for offences when the act is carried out by another person (that is, someone who is not an SNH employee). Under this subsection, a person is not protected from liability even when acting under a direction pursuant to a control agreement, a control scheme or section 10 if they commit an offence under section 5(5), 17(3), 17ZA(1), 18(1) or 19(1) of the 1996 Act. Practically, this means that a person must have an authorisation under the relevant section to carry out the activity, even when acting under a direction pursuant to a control agreement, a control scheme or section 10. This ensures that a person does not escape liability for carrying out an act without authorisation which ordinarily requires authorisation, as a person who is directed to undertake an activity which may only be undertaken with an authorisation in pursuit of a control agreement, a control scheme, or section 10 of the Act will still commit an offence if they do not have the relevant authorisation for that activity.

61. Section 20(4) updates the definition of a "member of the staff of SNH" to refer to the correct subsections which the definition applies to.

Preventing or stopping damage by deer

Section 21 – Measures to prevent damage by deer

62. Section 21 amends section 10(1) of the 1996 Act and repeals section 11 of that Act. The combined effect of these changes is to enable SNH to take action to prevent damage by deer to the natural heritage (as defined in section 45 of the 1996 Act) or environment on the same basis and following the same process as is set out in section 10 of the 1996 Act.

Section 22 – Action to prevent or stop harm to persons

63. Section 22 provides that a person has not committed any offences under the 1996 Act where the person has acted to prevent or stop a deer from harming someone. For the defence to apply, a number of conditions must be met:

- First, the harm must be likely and imminent (or occurring). The two aspects operate together to ensure that a theoretical risk of harm (say calm deer in the vicinity of people, or potentially aggressive deer some distance away) doesn't enable someone to start taking unlawful action.
- Second, the person must reasonably believe that the action is necessary. This builds on the first test and requires it to be reasonable for the person to believe it was necessary to have acted (especially if it turns out that the action wasn't or may not have been necessary). Or, to put it another way, it is not sufficient for the person to say that the deer might have caused harm, the surrounding circumstances need to support the person forming that view.
- Third, the action taken needs to be appropriate in the circumstances. A stray deer in a park may pose a threat but that doesn't necessarily mean it needs to be shot if there is an obvious lesser means of scaring it away. Equally, a person shouldn't use

a vehicle to run down a deer if the person is (or is with) an armed and competent shooter. It could also apply to disposal of any carcase: taking it home or selling it for venison may not be appropriate.

- Finally, the person must report what they have done to the police and where the carcase is (or was left). If they fail to do so, they lose the benefit of the protection. This can be done in a variety of ways including by telling any officers attending at the scene, attending a police station in person, calling 101 (for non-emergencies), via text (where the person is deaf, deafened, hard of hearing or speech impaired), or by writing to the contact address for the time being provided by the Police for that purpose.

64. The other provisions of the section make consequential changes to other sections of the 1996 Act to take account of the new provision.

National deer management and venison plan

Section 23 – National deer management and venison plan

65. Section 23 inserts section 40B into the 1996 Act and creates a requirement for the Scottish Ministers to, within 5 years of the day on which this section comes into force, prepare and publish a plan on the management of deer and promotion of venison in Scotland. The plan must include the matters set out in subsection (2), which are:

- a statement of priorities in relation to deer management in Scotland,
- the measures and actions that the Scottish Ministers intend to take in relation to a number of issues including deer in lowland areas[20], current and emerging deer management concerns, the venison industry as well as facilities and supply chains, and financial support for deer management (including its efficient use),
- data relating to deer management, including population and spread information, and
- anything else the Scottish Ministers consider appropriate and relates to deer management or promotion of venison.

66. The Scottish Ministers may, by regulations subject to the affirmative procedure, add, adjust or remove information to be included in the plan set out in subsection (2).

67. Subsection (3) requires that the plan be reviewed and updated before the end of every period of 10 years following the publication of the first report. Whether preparing the first plan, or reviewing and updating the plan, the Scottish Ministers must consult SNH, persons they consider represent the interests of those undertaking deer management, the venison industry and the environmental and nature restoration sector, and anyone else they consider appropriate (subsection (4)).

68. Subsection (5) states that as soon as reasonably practicable after preparing a plan, or reviewing and updating a plan, the Scottish Ministers must lay the plan before the Scottish Parliament and publish the plan.

[20] What constitutes "lowland areas" for these purposes are to be set out in the plan itself.

69. In this section, "venison" means any part of a carcase of a deer which is edible by humans (subsection (6)).

Section 24 – National deer management and venison plan: matters which may be considered

70. This section inserts a new section 40C into the 1996 Act to build on section 40B inserted by section 23 of this Act. It sets out the matters which the Scottish Ministers may in particular have regard to when preparing, reviewing or updating a plan under section 40B:

- Different circumstances in which deer are managed,
- The challenges of managing deer in different circumstances (for example the environments in which they are present and types of deer),
- Characteristics and numbers (which may be affected by behavioural differences between species), and
- How to balance social, economic, environmental and deer welfare considerations (keeping in mind the priorities of the plan).

Section 25 – National deer management and venison plan: initial consideration of matters relating to venison

71. This section inserts a new section 40D into the 1996 Act to further build on sections 40B and 40C inserted by sections 23 and 24 of this Act. The Scottish Ministers must, before preparing a plan or reviewing and updating a plan under section 40B, consider any barriers in relation to the effective operation of venison processing facilities. For example, consideration may include butcheries and community larders.

72. As part of this consideration, the Scottish Ministers must consult persons they consider represent the interests of the venison industry and anyone else they consider appropriate (subsection (2)). If appropriate, this consultation may be used to satisfy the requirement to consult set out in section 40B(4)(b)(ii) to prevent duplication of effort. SNH investigatory powers.

Section 26 – Power to enter on land

73. Section 15 of the 1996 Act provides persons authorised by SNH with power to enter on to land in a number of circumstances, namely:

- in connection with the exercise of its functions under section 10 (emergency action to prevent damage by deer),
- for the purposes of taking a census of deer,[21]
- to determine whether any of its functions under section 7 (control agreements) or 8 (control schemes) should be exercised,
- for the purpose of exercising any of its functions under section 7 or 8, and
- to check compliance with any requirement placed on a person under the 1996 Act.

[21] This was originally done in pursuance of the functions under section 1(1) of the 1996, but it is now covered under section 15 by virtue of the amendment section 26(3)(d).

74. Entry for the exercise of functions under section 10 does not require prior notice. However, entry for the other purposes does require notice to have been given prior to the entry being taken and the power to enter lasts for the period of a month.

75. Section 26 of the Act makes a number of adjustments to section 15 of the 1996 Act, many of which are connected to the new section 15A being inserted by section 27. It also makes a consequential amendment to section 7 and section 45 of the 1996 Act.

76. Section 26(2) amends section 7 of the 1996 Act to add a new subsection (4C), which makes clear that it is possible to combine a notice under section 7(4)(a) (which gives notice that SNH has formed the view that measures are required for the control of deer on land) with a notice under section 15(2) which will entitle SNH to take entry for purposes relating to its functions under section 7 (as set out above).

77. Subsection (3)(a) amends section 15(2) of the 1996 Act to shorten the period of notice that must be given before a person authorised by SNH may take entry from 14 days to 5 working days (defined in subsection (4)).

78. Subsection (3)(b) inserts subsection (2ZA) into section 15. This allows a person authorised by SNH for a purpose set out in section 15(3), to take entry onto land belonging to, or occupied by, a person who has (a) been served a notice requiring that person to produce information and (b) not done so within 10 working days of receiving the notice and (c) the period of 30 days beginning with the day after the day by which the information was to be provided or the document was to be produced has not elapsed. This power of entry therefore supports the power to require the production of information and will, in practice, most often be used to support SNH in fulfilling its duties under section 7 and 8 by providing means to ascertain both if intervention is required and, if so, what measures should be taken. Subsection (3)(c) makes a consequential amendment in light of these changes.

79. Subsection (3)(d) replaces paragraph (a) of section 15(3) to update the purpose for which a person may be authorised from taking a census of deer to a similar but more specific purpose of recording the number of deer (and such characteristics as may relevant) and assessing the impact of the deer on the land.

80. Subsection (3)(e) inserts a new subsection (3A) to require that when SNH authorises a person to enter land for the purpose described in section 15(3)(a), SNH must share with the owner particular information about deer in the area and the impact that those deer have. This information must be provided within three months. It must also be provided in an accessible format (new subsection (3B)).

Section 27 – Power to require information and documents

81. Section 27 inserts a section 15A into the 1996 Act. Section 15A provides SNH with a power to require a person who is or whom SNH may reasonably believe to be an owner or occupier of land which is in, or which may become within, a control area to provide SNH with information connected with the exercise of its functions under section 7 or 8 of the 1996 Act. Failure to provide the information or document will result in SNH being able to take access to the land to ascertain the information for themselves.

82. The inclusion of persons who SNH reasonably believe to be the owner or occupier of land is to ensure that where a notice is served on a person who appears to be owner or occupier of land (but in fact is not, perhaps due to a complex ownership structure) the person is still required to supply the information or explain why they cannot do so.

83. To require a person to provide information or a document, SNH must serve a notice on the person specifying or describing the information or document that is to be provided or produced and informing them of the consequences of failing to do so. The information or document must be provided or produced within 10 working days of the notice being given to the person or by such later date as SNH may agree with the person.

84. Unless the notice asks for an original document, providing a copy of it (or the information) will be sufficient. Further, where information is stored electronically (for example, an email or spreadsheet), the email has to be produced in a form which is visible and legible. It is not sufficient to provide it in a form which cannot be accessed or read.

85. Subsection (7) exempts from the scope of the power any information which a person would not be compelled to produce in civil proceedings before the Court of Session. This primarily relates to information which is legally privileged, such as advice from a solicitor.

86. A person who knowingly or recklessly supplies information which is false in a material particular commits an offence and may be subject to a fine up to level 3 on the standard scale (currently £1,000).

Section 28 – Giving notices electronically

87. Section 28 amends section 16 of the 1996 Act to enable all notices that are required under the 1996 Act to be served electronically provided that the person upon whom it is to be served has consented in writing to the receipt of electronic notices of the kind in question (most likely email) and provided an appropriate address or number for receiving such notices. Previously, only notices under specific sections of the 1996 Act could be served in this manner.

Authorisations for particular activities

Section 29 – Authorisation for taking or killing deer during close seasons

88. Section 29 of the Act modifies section 5 of the 1996 Act. Section 5 makes it an offence to take or kill deer during close seasons, but also sets up the ability for the activity to be authorised by SNH in particular circumstances.

89. Subsection (2) of section 29 updates section 5(5) of the 1996 Act so that it refers to the correct provisions as amended. Subsection (3) of section 29 makes substantive changes by replacing section 5(6) of the 1996 Act with three new subsections: (6), (6A) and (6B).

90. The new subsection (6) largely replicates the existing subsection (6)'s power for SNH to allow owners or occupiers of land (or those nominated in writing by owners or occupiers) to take or kill deer during close season. New subsection (6) does not itself contain the conditions that must be satisfied before the authorisation may be granted. Instead, these are contained in new subsection (6A). Before an authorisation may be granted, SNH must be satisfied that a ground in either section 6ZA(2) (grounds for intervention: damage by deer) or 6ZB(2) (grounds for intervention: nature restoration) applies, and that other methods of control are inadequate.

There is no longer any reference in the conditions to specific types of land on which taking or killing deer during close seasons may be done. New subsection (6B) replicates the remainder of the original subsection (6), that subsection (6) applies notwithstanding anything in any agreement between an owner and occupier of land.

91. Subsection (4) of section 29 repeals section 5(8) of the 1996 Act. Section 5(8) stated that authorisations under section 5 may be general or specific and granted to a person or category of persons. However, under the provisions of the Act, section 5 authorisations are to be dealt with through the register established by regulations under section 17A of the 1996 Act.

Section 30 – Authorisation for taking or killing deer at night

92. Section 30 of the Act modifies section 18 of the 1996 Act. Section 18 makes it an offence to take or kill deer at night (between the expiration of the first hour after sunset and the commencement of the last hour before sunrise), but also sets up the ability for the activity to be authorised by SNH in particular circumstances. It also makes associated changes to a definition in section 45.

93. Section 30(2) makes changes to section 18. Subsection (2)(a) updates a reference to subsection numbering so that it refers to the correct range of subsections. Subsection (2)(b) substitutes the existing subsection (2) for new subsections (2) to (5). The new subsection (2) largely replicates existing subsection (2)'s power for SNH to authorise the taking or killing deer at night. However, it adds owners to the list of people, alongside occupiers and those nominated in writing, to those who may be authorised to take or kill deer at night. Under new subsection (3), a person who has been authorised by SNH to take or kill deer at night must not exercise that authorisation unless they are satisfied that a ground in either section 6ZA(2) (grounds for intervention: damage by deer) or 6ZB(2) (grounds for intervention: nature restoration) applies. Consequently, a person will commit an offence under subsection (1) if they have an authorisation but they then carry out the activity in circumstances where a ground for intervention does not apply. There is no longer any reference in the conditions to specific types of land on which taking or killing deer at night may be done. New subsection (4) replicates the remainder of the original subsection (2), that subsection (2) and (3) apply notwithstanding anything in any agreement between an owner and occupier of land. Finally, subsection (5) permits SNH to authorise any person to take or kill deer at night for any scientific purpose.

94. Section 30(3) amends the definition of "animal foodstuffs" in section 45 of the 1996 Act to remove the reference to section 18(2), given that the concept of animal foodstuffs no longer appears in the section.

Section 31 – Authorisation for use of vehicles to drive deer

95. Section 31 of the Act makes some adjustments to section 19 of the 1996 Act, which makes it an offence to use vehicles to drive deer unless SNH has granted an authorisation.

96. Subsection (2) makes section 19 consistent with the other authorisation provisions by allowing owners or occupiers to obtain an authorisation, or nominate third parties for an authorisation. Occupiers were previously not included in this section.

Section 32 – Offence of shooting deer with a shotgun

97. Section 32 of the Act creates a new offence of shooting a deer with a shotgun, along with a corresponding ability for SNH to authorise the activity in appropriate circumstances. It does so by inserting a new section 17ZA into the 1996 Act.

98. Section 32(2) inserts the new section into the 1996 Act. Subsection (1) of section 17ZA sets out the offence and the sections to which it is subject. A person commits an offence if they shoot a deer with a shotgun and none of the sections or subsections that the offence is subject to apply. Subsection (2) mirrors the authorisation provisions in sections 5, 18 and 19, allowing SNH to authorise an owner or occupier of any land (or any person nominated in writing by the owner or occupier) to shoot deer with a shotgun. SNH may not grant an authorisation unless a ground in section 6ZA(2) or 6ZB(2) applies (see subsection (3)). SNH must also be satisfied that other means of deer control are inadequate in the circumstances, meaning that there should be some particular reason why a shotgun (as opposed to another means of deer control) is appropriate for the authorisation. Subsection (4) applies the authorisation provisions notwithstanding anything contained in any agreement between an occupier of the land and the owner. Subsection (5) makes it clear that the requirement for authorisation to shoot deer with a shotgun does not limit other restrictions which may be imposed under the order-making power in section 21 of the 1996 Act except to the extent provided in section 17ZA. For example, section 21 orders may still regulate shotguns and shotgun ammunition outside of authorisation conditions so as to be generally applicable but not to the extent that it would render section 17ZA ineffective (for example by banning shotguns entirely).

99. Section 32(3) adds a reference to section 17ZA(1) to section 31(4) of the 1996 Act. Section 31 relates to powers of the court following conviction of offences under the 1996 Act. Section 31(4) provides that where a person is convicted of an offence under certain sections of the Act they will be liable to the forfeiture of any deer illegally taken killed or removed by them or in their possession at the time of the offence.

100. Section 32(4) adds a reference to section 17ZA to section 37. Section 37 requires SNH to be satisfied that a person is a fit and competent person before it grants particular authorisations. This subsection therefore adds the authorisation under section 17ZA to shoot deer with a shotgun to the authorisations which cannot be granted unless the applicant for the authorisation is fit and competent.

101. Section 32(5) inserts a definition of "shotgun" into section 45 of the 1996 Act to be a firearm of such description as may be specified as constituting a shotgun for the purposes of the 1996 Act by regulations. This is expected to include those weapons which are classed as shotguns under section 1(3) of the Firearms Act 1968 ("the 1968 Act") and any additional descriptions of firearms which, though not technically shotguns for the purpose of the 1968 Act definition, are nonetheless considered shotguns for practical purposes. Before any regulations are made specifying what constitutes a shotgun, Scottish Ministers must consult those who they consider may have an interest in or otherwise be affected by the regulations.

102. The penalty for committing an offence under new section 17ZA is inserted into schedule 3 of the 1996 Act by section 32(6). A person who shoots a deer with a shotgun (and who does not have an authorisation from SNH) may be liable for a fine of level 4 on the standard scale for each deer shot.

Section 33 – Register of authorised persons

103. Section 33 of the Act deals with section 17A of the 1996 Act, which contains a regulation making power to establish a register of persons competent to shoot deer. Section 33 amends section 17A to enable regulations to also provide for the registration of authorisations for specified activities.

104. Section 33(2)(a) allows for the establishment and operation of a register of persons, who are (either or both):

- competent to shoot deer in Scotland, and
- authorised to carry out one or more of the specified activities.

105. A "specified activity" is defined in a new subsection (8), added by section 28(4). A specified activity is an activity which requires authorisation under sections 5, 17ZA, 18 or 19. The definition is by reference to the need for permission from SNH to carry out the activity via an authorisation, rather than by reference to the criteria for determining whether the authorisation should be granted (or lack thereof).

106. The effect of the amendment in section 33(2)(a) is that once the register is set up, a person will be able to apply to SNH for inclusion on the register for two things: (a) for being fit and competent to shoot deer and (b) for authorisation to carry out one or more of the specified activities. During the application process, a person can indicate what they want to be registered for (e.g. being fit and competent to shoot deer, or being fit and competent to shoot deer as well as to carry out night shooting and shooting during close seasons, or all of the specified activities).

107. A person applying for registration only as fit and competent to shoot deer would simply need to satisfy SNH that they are fit and competent to do so and follow any registration process set out under the regulations. If the person wanted to later add an authorisation to carry out one or more specified activities, they would be able to apply the authorisation to be added to the register. As they would already be on the register as fit and competent to shoot deer, they wouldn't need to satisfy SNH that they were fit and competent (due to the operation of section 37 of the 1996 Act), only that the criteria in the relevant authorisation section (if any) are met for each specified activity that they are seeking to add to the register.

108. In the case of a person applying for authorisations, it is expected that most applicants would also be applying for registration as being fit and competent to shoot deer because most of the specified activities involve shooting. In this scenario, the application would have to address two things: (a) whether the person is fit and competent to shoot deer and (b) whether the test in the relevant authorisation section is met for each specified activity that the person is seeking to be registered for. No assessment as to fitness or competence for the purposes of the specified activity authorisation(s) would be necessary because it would already be being assessed as part of the shooting registration. Once a person is on the register as holding an authorisation for a specified activity, they will not need to subsequently go back to SNH to get an authorisation for each specific occasion of carrying out the specified activity. If they wish to apply for another authorisation for a different specified activity, they will be able to apply for that additional authorisation to be added to the register. As with fresh registrations, they can be considered fit and competent as this has already been assessed as part of the shooting registration.

109. There may be a small category of people who are not on the register and wish to apply for an authorisation without also needing to be fit and competent to shoot deer: those who only apply for registration for the specified activity of driving deer using a vehicle. In this situation, SNH will have to assess two things: (a) fitness and competence to carry out the specified activity (as the person is not already on the register) and (b) whether the test in the relevant authorisation section is met.

110. Despite the Act setting up the mechanisms for a register recording authorisations to be implemented, the ability for a person to obtain a one-off authorisation outside of the registration process is also retained. As the registration process will take some time to complete, it may not be appropriate for authorisations which are only needed for a very limited or specific purpose or timeframe. For example, an executor who has no need for an ongoing authorisation but needs to be able to act for some reason or a pest control company based in England that has been brought in to supplement local resources. As the new section 37(1A), inserted by section 35(3) only states that a person "may" be considered fit and competent by their inclusion on the register, it does not limit the ways in which a person can be considered fit and competent for the purposes of authorisations for specified activities. In the case of someone not already on the register, that person could still be assessed to be fit and competent specifically for the purpose of the authorisation. Here, SNH will need to assess (a) whether the person is fit and competent and (b) whether the test in the relevant section is met. The ability to issue these one-off authorisations allows for urgent, one-off authorisations to be issued without going through the full registration process.

111. While most of the authorisation provisions require SNH to apply a statutory test to determine whether the authorisation may be granted (for example sections 17ZA and 19), others do not (section 18 for example). In the former case, SNH will have to apply the relevant test when assessing the appropriateness of granting an authorisation during the registration process. In the latter case, there is no particular test that must be applied but SNH may, if authorised by regulations under section 17A, set standards which must be met by an applicant during the application process. For example, SNH may make a decision that a person applying for authorisation to take or kill deer at night will need to demonstrate a particular level of competence before the authorisation can be granted. The level of competence may be specified in regulations under section 17A and applied during the registration process.

112. Section 33(3)(a) harmonises the language used in referring to the register, while paragraph (b) changes subsection (2)(a)(xiv) to allow for consequential modification of sections 17ZA, 19 and 26ZA. Sections 17ZA and 26ZA are new provisions covered by the register and regulations which need to be included, and section 19 is an existing provision which is now covered by the register and regulations. Section 33(3)(b) changes subsection (2)(a)(x) to clarify that the regulations require information other than the required information (number of deer of each species and of each sex) to be provided in cull returns (including cull returns which show the number of deer of each species and of each sex which are planned to be killed).

113. Section 33(3A) adjusts the definition of "cull return" in section 17A of the 1996 Act. Paragraph (a) inserts "taken or" before "killed" in order to be consistent with wording elsewhere in the 1996 Act and paragraph (b) allows cull returns which show the number of deer of each species and of each sex which are planned to be killed to cover a period of up to 5 years (previously these kinds of planned cull return could only cover prospective periods of one year).

114. Subsections (5) and (6) of section 33 change the cross heading and section heading respectively. Both are changed from "Register of persons competent to shoot deer" to "Register of authorised persons", to more accurately describe what the section is now doing.

Section 34 – Repeal of obligation to carry out competence review

115. Section 34 of the Act repeals section 17B of the 1996 Act as it is now obsolete given that the review has been undertaken.

Section 35 – Requirement to be fit and competent for certain authorisations

116. Section 35 of the Act amends section 37 of the 1996 Act, which requires holders of certain authorisations to be fit and competent.

117. Section 35(2) makes various adjustments to subsection (1) of section 37. In particular, paragraph (b) adds section 17ZA(1) to the list of authorisations for which a person must be fit and competent and paragraph (c) adds section 18(5) to the same list.

118. Section 35(3) substitutes subsection (1A) to allow a person who is included on the fit and competent register established under section 17A to be considered a fit and competent person for the purposes of authorisations.

119. Section 37(3) of the 1996 Act imposes a restriction on the granting of authorisations for certain activities unless a code of practice has been published. Section 35(4) adds section 18(5) to that list of authorisations requiring a code of practice. Section 18(5) is added by section 30 and deals with taking or killing shooting for scientific purposes.

Section 36 – Repeal of saving of right to take deer on land

120. Section 36 of the Act repeals section 41(2) of the 1996 Act. As all persons, owners and occupiers are subject to the requirements of sections 18, 19 and 20 of the 1996 Act, this section is no longer necessary.

Section 37 – Right of occupier or grazings committee to prevent damage by deer

121. Section 37 modifies the 1996 Act to add an offence (and associated defence) to section 17, expand the statutory rights of occupiers of agricultural land or woodland and grazings committees to prevent damage by deer on the land or grazings. It does this by substituting existing section 26 of the 1996 Act with three new sections (sections 26, 26ZA and 26ZB). It also adjusts section 5A of the 1996 Act to include guidance about the exercise of these rights as a topic that may be included in the Code of Practice on Deer Management.

122. Section 37(3) adds a new offence to section 17 of the 1996 Act. It relates to the situation where a person knowingly causes or permits another person to take or kill a deer on any land without either the permission of the person having the right take or kill the deer or in circumstances to which sections 26(1) or 26ZA(1) do not apply (i.e. where it is necessary to take or kill deer to prevent damage or injury). This offence addresses the situation where a person (e.g. a tenant or third party) induces or persuades another to kill a deer without the appropriate permission to do so from the person who has the rights to the deer, typically the land owner or a person who has sporting rights and there is no basis under section 26 or section 26ZA for the taking or killing (i.e. the occupier of the land or the grazings committee do not have reasonable grounds to believe that the taking or killing of the deer is necessary to prevent damage or injury (as set out in section 26(1) and section 26ZA(1)). The penalty for the offence is contained in schedule 3 (as added by subsection (7)).

123. A new defence is also added for a person who has killed a deer without permission or the circumstances in section 26(1) or 26ZA(1) but reasonably believed that they did have such permission or that such circumstances did apply. This protects people such as third-party contractors or employees who are asked to kill deer from being found guilty of an offence, provided they reasonably believed that the necessary permission was in place or the relevant circumstances applied.

124. The previous section 26 of the 1996 Act (right of occupier in respect of deer causing damage to crops etc. on certain ground) provided that it was lawful for the occupier of the land, or certain persons duly authorised by the occupier, to take or kill and to sell or otherwise dispose of any deer found on arable land, improved permanent pasture (excluding moorland), land regenerated for agriculture and enclosed woodland where the occupier reasonably believed deer are damaging crops, pasture or foodstuffs on the agricultural land or to the woodland. It also made provision to enable grazings committees to take equivalent action in relation to enclosed land (other than moorland) which is part of a common grazing.

125. New section 26 of the 1996 Act (as inserted by section 37 of the Act) broadly replicates the effect of its predecessor but with three key changes.

126. The first key change is to broaden the kind of land that the occupier or a person mentioned in subsection (4) authorised in writing by the occupier, will be permitted to take or kill, and sell or otherwise dispose of, any deer found on any part of their land or woodland. The previous section 26 applied only to the specified areas of land (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 enclosed woodland). New section 26 removes this distinction between land types, allowing the occupier to shoot deer on any type of land (including moorland or unenclosed woodland) as long as the reasonable grounds for believing that taking or killing the deer is necessary.

127. The second key change relates to those reasonable grounds. Those grounds are expanded so as to not only cover damage to agricultural production (including any crops and foodstuffs) or to the woodland, but also damage (whether directly or indirectly) to the natural heritage or environment generally and injury to livestock kept on the land (including overgrazing of pastures and competing for feeding).

128. The third key change is that new section 26 no longer concerns the right of grazings committees. This is instead dealt with separately under new section 26ZA. New section 26ZA broadly replicates new section 26 as respects a person authorised in writing by a grazings committee and approved in writing by SNH. The authorised person will therefore be permitted to take or kill, and sell or otherwise dispose of, any deer found on the common grazing (including moorland etc.) if the committee has reasonable grounds to believe that the killing or taking is necessary to prevent damage to woodland forming part of the common grazings, but also damage to the natural heritage or environment generally and injury to livestock kept on the grazings.

129. Section 26ZB confers power on the Scottish Ministers to make further provision in connection with the exercise of rights under sections 26 and 26ZA. This is primarily concerned with ensuring that any such rights are exercised safely. This will enable, among other things, regulations to be made which set out actions that require to be taken before exercising rights

under section 26 or 26ZA. Different provision may be made for different circumstances, so, for example, where there is an immediate need to prevent damage to crops or livestock, the regulations might provide that no notice is required. However, if there is a plan to shoot deer in several days' time, the regulations could require the occupier to notify the landowner in advance.

130. The regulations may include provision about the consequences of failing to comply with any requirement of the regulations. Depending on the requirement it may be that the right to kill or take deer is lost in respect of a particular event or the commission of an offence.

131. Before making any regulations under this section the Scottish Ministers must consult such person as they consider represent persons likely to be interested in or affected by the regulations. In practice, this will likely include organisations that represent farmers, agricultural tenants, landowners, crofters and country sports.

Stray farmed deer

Section 38 – Liability for taking or killing stray farmed deer

132. Section 38 of the Act inserts provisions into the 1996 Act which deal with liability for taking or killing stray farmed deer. In particular, it introduces an offence of failing to report the taking or killing of a stray farmed deer and a defence to civil liability for taking or killing stray farmed deer.

133. The concept of a farmed deer is defined in the 1996 Act as 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. However, once a farmed deer has strayed beyond the enclosure, it ceases to be a farmed deer. Section 38(6) inserts a definition of stray farmed deer into the 1996 Act as "a deer which was a farmed deer but which has escaped the agricultural land enclosed by a deer-proof barrier on which it was kept". Once a deer is a stray farmed deer, it can be taken or killed in the same manner as a wild deer. A stray farmed deer may also be recaptured and returned to the enclosed agricultural land such that it once again becomes a farmed deer. Its status depends on whether it is on the enclosed agricultural land.

134. Section 38(2) inserts a new section 20A into the 1996 Act, creating an offence of failing to report the taking or killing of a stray farmed deer. The operation of section 20A can be illustrated by reference to someone who is exercising a legal right to take or kill deer. There are many circumstances in which a person may have the right to take or kill deer on land. Owners of land have a right to take and kill game (including deer) on their land and to lease their game rights to a sporting tenant. Although agricultural tenants are not generally permitted to take game on the land on which they are a tenant (unless their lease permits them to do so), they may do so under the circumstances described under section 26 of the 1996 Act. Section 26 gives an occupier the right to take or kill deer causing serious damage to crops, pasture, or human or animal foodstuffs on agricultural land or enclosed woodland. Others may also have statutory rights to take or kill deer on land, for example someone acting under section 25 (action intended to prevent suffering).

135. Section 20A will apply after someone has exercised these rights, or otherwise takes or wilfully kills a deer (subsection (1)(a)), which is in fact a stray farmed deer (subsection (1)(b)). However, section 20A does not apply if the deer has been taken or killed under section 25A (permitting taking or killing deer to prevent or stop danger to human safety) of the 1996 Act

(subsection (1)(c)). This is because section 25A has its own, different reporting requirement so an additional report under section 20A is not necessary. Where the section applies, the person must report the taking or killing of the deer (and the location of any carcase) to the Police Service of Scotland within 5 working days of the deer being taken or killed (section 20A(2)). If the person does not comply with subsection (2), they are liable for a fine of level 2 on the standard scale for each stray farmed deer they fail to report (section 38(4)). However, it is a defence under subsection (3) for the person to show that they did not know, and could not reasonably have known, that the deer was a stray farmed deer. For example, there was no tag or marking on the deer. Or if the deer escapes and is found dead later, the person may be able to say that they were unable to find the carcase to examine it, but had no reason to believe it was a farmed deer.

136. Section 38(3) inserts a new section 26A, which introduces a defence to civil proceedings for killing or injuring a stray farmed deer. To take advantage of the defence, a person must show that (a) they were exercising a legal right to take or kill deer, and (b) they complied with their duty under section 20A to report the killing or taking of the stray farmed deer and (if appropriate) the location of the carcase to the Police Service of Scotland or their duty under section 25A in the case of killing done in emergencies.

137. Subsections (5) and (6) of section 38 adjust definitions related to farmed deer and stray farmed deer. The definition of "farmed deer" is moved from section 43 to section 45 for ease of reference since it now applies in a wider number of sections. The reference to section 43(4) in section 43(1) is also removed, as it is being repealed. Finally, a new definition of "stray farmed deer" is inserted into section 45.

Licensing of dealing in venison

Section 39 – Removal of requirements related to licensing to deal in venison

138. Section 39 repeals various provisions which impose requirements to be licensed to deal in venison. Under the 1996 Act scheme of provisions, anyone who sold venison was required to hold a license to deal in venison. The process by which a license was granted and managed was set out in section 33. License holders were required to keep records for a period of 3 years, including purchases and receipts of venison (section 34). Section 35 concerned reciprocal arrangements between venison dealers or between venison and game dealers and section 36 made it an offence to sell, offer or expose for sale or have in possession or cause to be transported for sale venison unless the person had a license.

139. Section 39(4) to (7) repeals sections 33 to 36. Subsection (2) repeals references to section 36 in section 27(5) of the 1996 Act, subsection (8) repeals references to sections 33 to 36 in section 43 of the 1996 Act and subsection (9) repeals penalties associated with sections 33 to 36 in schedule 3 of the 1996 Act. Finally, subsection (10) changes the title of Part IV from "Enforcement, licensing of venison dealing and miscellaneous provisions" to "Enforcement and miscellaneous provisions" to better reflect what the Part is now doing.

140. Section 16 of the Interpretation Act 1978 (the relevant interpretation act for the 1996 Act) applies, meaning the operation of sections 33 to 36 is saved in respect of events that occur before these repeals come into effect. For example, this will mean that although records will no longer have to be created under section 34, records in existence at the time that the repeals come into effect should be retained.

Section 40 – Review of modifications to the Deer (Scotland) Act 1996

141. Section 40 requires the Scottish Ministers to prepare a report on the operation and effectiveness of the changes made by the Act to the 1996 Act within 10 years of section 40 of the Act coming into force. The report must also be laid before the Scottish Parliament and a copy must be provided to a committee of the Parliament which deals with matters relating to deer management.

142. Subsection (2) provides that the report must include an assessment of the changes against the objectives of protecting and restoring the natural heritage and environment, achieving the aims and purposes of deer management set out by section 1 of the 1996 Act, and improving standards of welfare of deer. Subsection (3) also requires the report to include a statement of any actions the Scottish Ministers intend to take or, where no action is proposed, the reasons for not taking action.

PART 4 – MISCELLANEOUS AND GENERAL

Building regulations: swift nest box

Section 41 – Building regulations: swift nest box

143. This section requires the Scottish Ministers to introduce regulations in relation to swift nest boxes in buildings. The regulations, under the Building (Scotland) Act 2003, must make provision for the installation of swift nest boxes in such buildings as described in the regulations where reasonably practicable. The regulations must be made within one year of section 41 coming into force.

Marine protection

Section 42 – Nature conservation marine protected areas: climate adaptation

144. This section makes changes to section 68(7) of the Marine (Scotland) Act 2010, which deals with additional requirements in relation to the designation of Nature Conservation Marine Protected Areas ("Nature Conservation MPAs"). The changes remove discretion from the Scottish Ministers as to whether to have regard to the contribution designating an area as a Nature Conservation MPA will make to climate change mitigation, instead requiring them to do so. It also adds a requirement to have regard to the extent the designation of a Nature Conservation MPA will contribute to climate adaptation.

Salmon and freshwater fishing

Section 43 – Modification of offences and penalties related to fishing

145. This section makes amendments to a number of offences contained in the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ("the 2003 Act"). The amendments increase financial penalties for particular poaching and conservation offences on summary conviction, and allow for penalties to be determined on a per-fish basis where appropriate where an offence involves more than one fish being harmed, taken or killed etc.

146. The offences in the 2003 Act which are affected are:

- Section 1 (methods of fishing: salmon): this section makes it an offence to fish for or take salmon in inland waters and in any waters in a salmon fishery district other than inland waters except by those methods listed in the provision. The amendment raises the maximum penalty available on summary conviction for this offence from a fine not exceeding level 4 on the standard scale (£2,500) to the statutory maximum (£10,000) and provides for fines to be imposed on a per-fish basis where more than one salmon is taken.
- Section 2 (methods of fishing: freshwater fish): this section makes it an offence to fish for or take freshwater fish (other than salmon) except by rod and line. The amendment raises the maximum penalty available on summary conviction from level 4 on the standard scale (£2,500) to the statutory maximum (£10,000) and provides for fines to be imposed on a per-fish basis where more than one fish is taken.
- Section 5 (prohibition against use of explosives, poison to destroy or take fish): this section makes it an offence for any person to use any poison, explosive or other noxious substances or any electrical device, with the intent to take, destroy or stun fish in any waters. The amendment raises the maximum penalty available on summary conviction from the statutory maximum (£10,000) to £40,000 and provides that fines are to be imposed on a per-fish basis where the offence has resulted in the taking, destruction or stunning of more than one fish.
- Section 6 (fishing for salmon without right or permission): this section makes it an offence to fish for or take salmon in any waters, without legal right or written permission from a person having such right. The maximum penalty for this offence on summary conviction is a fine not exceeding level 3 on the standard scale (£1,000). The amendment raises the maximum penalty for fishing without legal right or written permission and taking a salmon to the statutory maximum (£10,000). However, the penalty for fishing without legal right or written permission and *not* taking a salmon is not increased and remains at the current level. The amendments also provide that fines are to be imposed on a per-fish basis where more than one salmon is taken.
- Section 7 (illegal fishing by two or more persons acting together): this section makes it an offence for every person involved, where two or more persons are acting together, to do any act which would constitute an offence under section 1, 2 or 6 of the 2003 Act. The maximum financial penalty for each person for this offence on summary conviction was a fine not exceeding the statutory maximum (£10,000), but the amendment raises this to £40,000 and provides that fines are to be imposed on a per-fish basis where more than one fish is taken.
- Section 10 (offences in relation to passage of salmon): this section makes it an offence for any person to intentionally prevent the passage of salmon through any fish pass or take a salmon as it passes through a fish pass. The maximum penalty for this offence on summary conviction was a fine not exceeding level 4 on the standard scale (£2,500), but amendment raises the maximum penalty available on summary conviction for this offence to the statutory maximum (£10,000) and provides that fines are to be imposed on a per-fish basis where more than one salmon is taken.

- Section 19 (salmon roe): this section makes it an offence for any person to buy, sell, expose for sale or have in their possession any salmon roe. The maximum penalty for this offence on summary conviction is raised from a fine not exceeding level 3 on the standard scale (£1,000) to a maximum of £40,000.
- Section 20 (possessing salmon which have been illegally taken, killed or landed): this section makes it an offence for any person to be in possession of a salmon that they believe, or should reasonably suspect has been illegally taken, killed or landed. The maximum financial penalty for this offence on summary conviction is increased to £40,000.
- Section 23 (young salmon and spawning beds): this section lists offences in relation to young salmon and spawning beds. Section 23(1) makes it an offence for any person to knowingly take, injure, destroy, buy, sell, expose for sale, be in possession of or obstruct the passage of young salmon. Section 23(2) lists offences for any person who injures or disturbs any spawning bed, bank or shallow where salmon spawn may be. Section 23(3) makes it an offence for any person to obstruct or impede salmon in their passage to any bed, bank or shallow during the annual close time. The maximum penalty for these offences on summary conviction is increased from a fine not exceeding level 3 on the standard scale (£1,000) to a maximum of £40,000.
- Section 33A (unauthorised introduction of fish into inland waters): this section makes it an offence for any person to intentionally introduce or possess and intend to introduce, live fish or live spawn of any fish into inland waters unless in relation to a fish farm or with written consent of the appropriate authority (Scottish Ministers or District Salmon Fishery Boards depending on the circumstances). The maximum penalty for these offences on summary conviction is increased from a fine not exceeding level 3 on the standard scale (£1,000) to a maximum of £40,000.
- Section 38 (salmon conservation regulations): subsection (7) makes it an offence to act in contravention of or fail to take any action required by regulations set by Scottish Ministers under section 38 of the 2003 Act. For example, anglers that contravene mandatory catch and release requirements for rivers in poor conservation status, as set by the annual Conservation of Salmon Regulations and anglers who contravene annual close times. The maximum penalty for these offences on summary conviction is a fine not exceeding level 4 on the standard scale (£2,500). The amendment raises the maximum penalty on summary conviction only where an offence under section 38(7), contravening or failing to act in accordance with regulations, results in salmon being taken, killed or otherwise harmed. The maximum penalty is increased to the statutory maximum (£10,000). The amendment also provides for fines to be imposed on a per-fish basis where more than one salmon is taken, killed or otherwise harmed. Where the offence does not result in a salmon being taken, killed or otherwise harmed, the maximum penalty remains a fine not exceeding level 4 on the standard scale (£2,500).

Report on penalties in sea fisheries legislation

Section 44 – Report on penalties in sea fisheries legislation

147. This section inserts a new section into the Aquaculture and Fisheries (Scotland) Act 2013 ("the 2013 Act").

148. The new section 60A places a duty on the Scottish Ministers to produce a report on the effectiveness of relevant penalties in ensuring compliance with sea fisheries legislation. The report is in relation to the Scottish enforcement area[22] and Scottish fishing boats, wherever they operate. "Sea fisheries legislation" is defined in section 53 of the 2013 Act and is to be construed in accordance with that definition (subsection (7)(b)). Subsection (2) sets out what the report must, in particular, cover. First, the report must set out the relevant penalties which the report covers, where "relevant penalties" are penalties that are contained in the sea fisheries legislation and that the Scottish Ministers consider appropriate to review (see subsection (7)(a)). Second, the report must set out why those relevant penalties have been selected. Third, the report must assess the effectiveness of those penalties in ensuring compliance with the sea fisheries legislation. Finally, the report must identify any changes to the penalties that the Scottish Ministers consider likely to improve compliance with the sea fisheries legislation. Other than these matters, subsection (3) clarifies that the report may also include anything else that the Scottish Ministers consider appropriate and which is related to the sea fisheries legislation.

149. In preparing the report, the Scottish Ministers must consult such persons as they consider appropriate (subsection (4)), and the report must be published within 2 years of section 60A coming into force (subsection (5)(a)). Before the report is published, it must be laid before the Scottish Parliament (subsection (5)(b)).

150. Subsection (6) allows the Scottish Ministers to make regulations to amend the level of penalties in sea fisheries legislation in connection with a change identified under subsection (2)(d). Any such regulations are subject to the affirmative procedure (section 44(3)).

Gulls

Section 45 – Report on gull population

151. This section establishes a statutory obligation for ongoing monitoring and reporting of the number of gulls in Scotland by requiring SNH to prepare and publish a report on the gull population in coastal and urban areas of Scotland. There must be a report in respect of each reporting period. The first reporting period is the period of 5 years beginning with the day after Royal Assent, and then each subsequent period of 5 years.

152. The report must set out: information about the gull population in both coastal and urban areas, shifts or trends in distribution of gulls between coastal and urban areas, and anything else that SNH consider appropriate and relates to the gull population in coastal and urban areas.

153. "Gull" is defined for the purposes of this section as being five species of gull, set out in subsection (4).

[22] Defined in section 53 of the 2013 Act.

Scallop shells

Section 46 – Guidance about scallop shells

154. This section requires the Scottish Ministers to issue guidance in relation to the by-products conditions and the end-of-waste conditions for scallop shells[23]. These conditions relate to when an item (in this case a scallop shell) may be treated as a by-product or when it can be considered to have ceased to be waste. Subsection (5) identifies the regulations in which the conditions may be found[24]. The guidance is intended to address perceived gaps and barriers in respect of the regulation of scallop shell waste by the Scottish Environment Protection Agency ("SEPA").

155. The waste regulation authority (that is, SEPA[25]) is to have regard to any guidance issued under this section in relation to the exercise of its functions.

156. Before issuing any guidance under this section, the Scottish Ministers must consult SEPA, as well as Food Standards Scotland and any other persons as they consider appropriate. The guidance must be issued within one year of the provision coming into force and must be published.

Wildlife licensing

Section 47 – Licensing: protection of mountain hares

157. This section amends section 16 the Wildlife and Countryside Act 1981 (the "1981 Act") to enable a licence to be granted in respect of the killing or taking of mountain hares by a person engaged in falconry during the period 1 October to the last day of February. It is not intended to permit the granting of a licence for the killing or taking of mountain hares by other means for that purpose (such as providing a food for birds of prey).

Section 48 – Licensing: land on which certain birds may be killed or taken

158. This section amends section 16AA of the 1981 Act, which deals with licensing for land used to kill or take certain birds, such as grouse.

159. Section 48 amends the 1981 Act in three ways. First, in subsection (2), it amends subsection (4) of section 16AA to provide that an application for a section 16AA licence[26] is to contain a description of the land that the applicant proposes the licence should cover. At present, section 16AA allows the applicant to specify the land to which the licence will apply. However, new subsection (5A) (inserted by section 48(3)) enables the relevant authority (in practice, SNH) where it considers it reasonable and appropriate to do so to propose a different area for the licence and, should agreement not be possible, to refuse the licence on that basis. This covers situations where the area proposed for the licence is considered to be inappropriate for some reason. The relevant authority must provide reasons for why it is proposing a different area.

[23] Defined in the Act as the shells of king scallops (*Pecten maximus*) and queen scallops (*Aequipecten opercularis*).
[24] The Waste and Agriculture (Legislative Functions) Regulations 2022 (S.S.I. 2022/190).
[25] See section 30(1)(b) of the Environmental Protection Act 1990.
[26] A section 16AA licence is a licence to kill or take certain birds, presently only grouse, on the land identified in the licence.

160. The second change to section 16AA is to subsection (9) of that section. This relates to circumstances in which a section 16AA licence may be suspended or revoked. At present, a licence may be suspended or revoked where certain "relevant offences"[27] (or conduct which the relevant authority is satisfied constitutes such an offence) are committed on the land to which the licence relates. Section 48(4) amends that to provide instead that suspension or revocation may occur where relevant offences that are committed support or benefit the activities permitted by the licence. This removes the strict geographical connection and means that relevant offences committed anywhere, but which the relevant authority is satisfied are likely to support or benefit the killing or taking of grouse under the licence, may result in the relevant authority taking action. For example, where the relevant authority is satisfied that a relevant offence such as killing a bird of prey has been committed[28] by a licence holder or an employee of the holder and that this will benefit the licensed activity (for example, by reducing predation of grouse farmed for shooting), then the relevant authority may suspend or revoke the licence.

161. The third change is that section 48(5) inserts a new subsection (9A). Under subsection (9)(a), the relevant authority may modify a licence. However new subsection (9A) provides the safeguard that the relevant authority may not, without the prior agreement of the licence holder, modify a licence to identify an area of land to which the licence relates which is different from the area of land identified when the licence was granted.

162. Section 48(6) makes transitional provision to clarify that the changes to when a licence may be suspended or revoked only apply from the date that the new subsection (4) comes into force. That means the relevant authority cannot suspend or revoke a licence granted before the coming into force of section 48 on the basis of a relevant offence committed otherwise than on the licensed land before that section comes into force (or for conduct that the relevant authority is satisfied constituted a relevant offence).

Wildfires

Section 49 – Wildfires: enabling local authorities to issue fixed penalty notices

163. This section amends the Local Government (Scotland) Act 1973 ("the 1973 Act") to confirm that local authorities have the ability to pass byelaws in relation to wildfires and to provide the Scottish Ministers with a power to create a fixed penalty regime in respect of such byelaws.

164. Section 201(1) of the 1973 Act confers powers on local authorities to make byelaws for the good rule and government of the whole or any part of the local authority area and for the prevention and suppression of nuisances in the area. This is limited by subsection (3) which prohibits byelaws where the provision for which the byelaw might be made is already covered by another enactment (i.e. byelaws can't be made in respect of activities that are already prohibited or an offence).

165. The new section 49(2) qualifies subsection (3) of section 201 of the 1973 Act to the extent that there may be existing statutory offences relating to starting fires and in new subsection (4) confirms that the power to make byelaws under subsection (1) may be used to

[27] See section 16AA(13) of the 1981 Act for the offences.
[28] Whether or not the person is prosecuted or convicted of the relevant offence. The provision does not require SNH to be satisfied beyond reasonable doubt.

create byelaws in connection with the prevention of wildfires, including in particular by prohibiting or regulating the lighting and control of a fire or an activity likely to cause a fire. This may, for example, regulate or prohibit the use of portable barbeques or setting campfires in circumstances which increase the risk of a wildfire starting.

166. Section 49(3) inserts a new section 204A into the 1973 Act, allowing the Scottish Ministers to make regulations for or in connection with the issuing of fixed penalty notices for byelaws relating to the prevention or suppression of wildfires. For the purposes of this new section, a fixed penalty notice is a notice specifying a sum of money that may or must be paid as an alternative to prosecution for an offence (section 204A(10)).

167. Section 204A(2) requires the regulations to specify both the byelaws in respect of which fixed penalty notices may be issued and the persons (or categories of persons) who may issue fixed penalty notices. Subsection (3) sets out the persons who may be specified as able to issue fixed penalty notices, including the persons, or categories of persons, that a local authority has authorised in writing for the purpose of issuing fixed penalty notices. The Scottish Ministers may also specify such other persons or categories of persons they consider appropriate. Subsection (4) lists the information which must be included in a fixed penalty notice provided for by regulations. Other things that the regulations may provide for, without limiting what the regulations may cover, are listed in subsection (5). In particular, the regulations may confer powers to enter land (other than homes) for or in connection with issuing a fixed penalty notice (subsection (5)(c)) and provides that the penalty that may be specified in regulations for a fixed penalty notice is a fine which may not exceed level 2 on the standard scale (subsection (5)(f)). The regulations may also create offences relating to the obstruction of a person who is exercising functions in relation to fixed penalty notices and a failure to provide information requested in connection with a fixed penalty notice (subsection (5)(s)). The maximum penalty that may be imposed in relation to those offences is a fine of not more than level 2 on the standard scale (subsection (6)).

168. Scottish Ministers must consult both persons that they consider to be representative of local authorities (such as COSLA[29]) and also such persons as they consider to be interested in or affected by the issuing of fixed penalty notices for byelaw offences in relation to the prevention or suppression of wildfires before making regulations (subsection (7)).

169. Subsection (8) contains the procedure to be applied to different types of regulations. Subsection (8)(b) makes the regulations subject to the affirmative procedure in most circumstances. However, subsection (8)(a) applies the negative procedure in two circumstances: (i) when the regulations are removing a reference to a byelaw which has been revoked, and (ii) when the regulations are specifying a byelaw which replaces a byelaw (with or without modification) and has the substantially same effect. A replacement of a byelaw that substantially modifies its effect will not fall under subsection (8)(a)(ii) and will need to be subject to the affirmative procedure. Subsection (9) allows for regulations to make incidental, supplemental, consequential, transitional, transitory or saving provision and different provision for different purposes. Definitions for the purposes of the section are contained in subsection (10).

[29] The Convention of Scottish Local Authorities

Meaning of public authority in the Nature Conservation (Scotland) Act 2004

Section 50 – Meaning of public authority etc. in the Nature Conservation (Scotland) Act 2004

170. Section 50 replaces the definition of "public body or office holder" in section 58 of the 2004 Act with provision that confirms that the expression only relates to the exercise of functions by public bodies and office holders in or as regards Scotland which do not relate to reserved matters.

Ramsar sites

Section 51 – Further provision about Ramsar sites

171. This section amends the 2004 Act to insert a provision which requires the Scottish Ministers to make regulations about the preservation and protection of designated wetlands. The regulations are to be made within 5 years of the Bill for the Natural Environment (Scotland) Act 2026 receiving Royal Assent (i.e. 12 March 2026).

172. For the purposes of this section, designated wetlands (often referred to as Ramsar sites) are wetlands situated in Scotland which have been designated under paragraph 1 of article 2 of the Ramsar Convention[30] for inclusion in the list of wetlands of international importance.

173. The power conferred on the Scottish Ministers allows them to make provision about the identification and listing of wetlands (not just designated wetlands), how designated wetlands are to be conserved, which may include by setting objectives for conservation, and monitoring designated wetlands.

174. The Scottish Ministers can make provision by amending or applying the Habitats Regulations[31] (which are used to protect other important habitats) or modifying or applying other enactments (such as the 2004 Act itself). The Scottish Ministers may also create or apply offences in connection with the provision and confer powers of entry to anywhere other than a dwelling-house. This might be relevant to ensure compliance with any new rules created to preserve or protect designated wetlands.

175. Before making regulations, the Scottish Ministers must consult SNH (who have statutory responsibility for designated wetlands and in respect of the Habitats Regulations), Environmental Standards Scotland and any other persons that the Scottish Ministers consider likely to be affected by or interested in the regulations being made. The Scottish Ministers must also be satisfied that making the regulations will maintain or improve the level of environmental protection existing in law at the time the statement is made.

[30] The Ramsar Convention is defined in section 38 of the 2004 Act. It is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971 as amended (or its replacement).
[31] Defined in section 38A(2)(b) of the 2004 Act. For more information about the Habitats Regulations, visit: https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species/legal-framework/habitats-directive-and-habitats-regulations

176. When laying the regulations before the Scottish Parliament, the Scottish Ministers must also make a statement explaining why they are satisfied that the regulations will maintain or improve the level of environmental protection existing in law at the time the statement is made.

177. Regulations under this section are subject to the affirmative procedure.

Forestry

Section 52 – Sustainable forest management

178. Section 52 modifies the Forestry and Land Management (Scotland) Act 2018 ("the 2018 Act") to give the Scottish Ministers the power to create regulations in connection with sustainable forest management (including the implementation of the forestry strategy). Regulations may in particular require specified persons to comply with specified requirements of the UK Forestry Standard ("UKFS"). The regulations may also provide that a failure of a specified person to comply with a specified requirement may result in a remedial notice being issued under section 54(1) of the 2018 Act. The UKFS is the benchmark for sustainable forest management. The UKFS is defined in subsection (5) as the fifth edition of the technical standard for sustainable forest management, published in 2023 and endorsed by the Scottish Ministers, or the most recently published subsequent edition of such standard which is endorsed by the Scottish Ministers. However, in the event of there being no published UKFS which is endorsed by the Scottish Ministers, it is such other document as the Scottish Ministers consider most similar to the UKFS.

179. Subsection (4) sets out what happens if a new edition of the UKFS is endorsed by the Scottish Ministers. In such a case, the Scottish Ministers must review any regulations made under this section and, if appropriate, lay new regulations before the Scottish Parliament for approval.

180. Before making regulations under this section, Ministers are required to consult with persons representative of the forestry sector in Scotland and such other persons they consider appropriate (subsection (3)). The regulations are subject to the affirmative procedure.

Section 53 – Forestry: offence of unauthorised felling

181. Section 53 amends the 2018 Act, specifically the existing offence of unauthorised felling at section 23. The amendment extends the offence to cover not only those persons who physically fell trees unlawfully but also those persons who knowingly cause or permit another person to unlawfully fell a tree.

182. Section 53 also introduces a new defence which provides that it is a defence for a person charged with the offence of unauthorised felling to show that they reasonably believed that the felling was carried out in accordance with a necessary permission, direction, or notice. This provides a defence to those who act in good faith and reasonably rely on what they are told or shown by owners or occupiers of land (or their agents).

Improvement plans under the European Union (Continuity) (Scotland) Act 2021

Section 54 – Procedure to approve improvement plans

183. Section 54 modifies the process for parliamentary consideration of Improvement Plans under section 30 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ("the Continuity Act").

184. One of the powers of Environmental Standards Scotland under the Continuity Act is the ability to submit an Improvement Report to the Scottish Parliament with concerns about the effectiveness of environmental law and its delivery, and recommendations for improvement.[32] Section 30 of the Continuity Act sets out the obligation and procedure for the Scottish Ministers to prepare an Improvement Plan setting out their response to these recommendations, which is subject to approval by the Parliament.[33] If the Parliament does not approve the Scottish Ministers' Improvement Plan, they are obliged to review and submit a revised plan until one is approved.[34]

185. This section of the Act amends section 30 of the Continuity Act to clarify the procedure for approval of the Improvement Plan. The Act modifies section 30(3) to explicitly state that the Improvement Plan is submitted to the Scottish Parliament "for approval" and replaces the text in section 30(5) to clarify that paragraphs (a) and (b) apply where "the Parliament does not resolve to approve the plan" (rather than where Parliament "resolves that the plan should not be approved"). Taken together, this makes Improvement Plans subject to what is commonly referred to as the "affirmative procedure" for parliamentary approval. Subsection (8) is repealed in consequence of the amendment to subsection (5).

Muirburn

Section 55 – Muirburn licensing: making muirburn for purpose of approved training course

186. This section modifies the Wildlife Management and Muirburn (Scotland) Act 2024 ("the 2024 Act") in two respects.

187. The main change is to make it clear that a licence to make muirburn (on both peatland and non-peatland) may be granted for the purpose of training as part of a training course which is approved under section 17 of the 2024 Act. A licence may be granted in respect of making muirburn for this purpose outwith the muirburn season only if the Scottish Ministers are satisfied that it is necessary to do so.

188. The changes also confirm that it is not permissible to grant a licence for making muirburn on peatland out of season for the purposes set out in section 13(2)(b)(i) to (iii) (i.e. restoring the natural environment, preventing, or reducing the risk of, wildfires causing damage to habitats or preventing, or reducing the risk of, wildfires causing harm to people or damage to property). Muirburn for these purposes on peatland may be done only within the muirburn season.

[32] Continuity Act, sections 26 and 29.
[33] Continuity Act, section 30.
[34] Continuity Act, section 30(5).

Section 56 – Muirburn licensing: grounds for grant of licence

189. This section removes paragraph (ii) of section 14(1)(b) of the 2024 Act which limited muirburn licences being granted only where no other method of vegetation control is practicable.

General

Section 57 – Regulations

190. Section 57 makes further provision about the regulation-making powers that the Act confers on the Scottish Ministers (other than those relating to commencement). In particular, it makes clear that the powers can also be used to make different provision for different purposes and areas and includes power to make incidental, supplemental, consequential, transitional, transitory or saving provision.

Section 58 – Ancillary provision

191. Section 58 confers a power on the Scottish Ministers to make ancillary provision by regulations.

192. Subsection (2) provides that the power to make ancillary provision can be used to modify enactments. The word enactment is defined for this purpose by schedule 1 of ILRA, it includes Acts of the Scottish Parliament and Acts of the UK Parliament. There is a general presumption that a regulation-making power cannot be used to modify Acts. Subsection (2) overcomes that presumption.

193. Subsection (3) provides for ancillary regulations to be subject to the affirmative procedure if they textually amend an Act of the Scottish Parliament or the UK Parliament, but otherwise they are subject to the negative procedure.

Section 59 – Commencement

194. Section 59 provides that 4 sections come into force on the day after Royal Assent. These sections relate to the commencement of the Act itself, regulations that may be made under the Act, the ability to make ancillary provision and the short title of the Act. The other provisions of the Act will come into force on such day as the Scottish Ministers may by regulations appoint.

195. Regulations bringing sections into force may include different provision for different purposes or areas and may include transitional, transitory or saving provision. Commencement regulations are not subject to any parliamentary procedure.

Section 60 – Short title

196. Section 60 provides that the Act may be cited as the Natural Environment (Scotland) Act 2026.

PARLIAMENTARY HISTORY

197. The following is a list of the proceedings in the Scottish Parliament on the Bill for the Act and significant documents connected to the Bill published by the Parliament during the Bill's parliamentary passage.

Proceedings and reports	***Reference***
Introduction	
Bill as introduced – 19 February 2025	SP Bill 59, Session 6 (2025)
Explanatory notes	SP Bill 59 - EN Session 6 (2025)
Policy memorandum	SP Bill 59 - PM Session 6 (2025)
Financial memorandum	SP Bill 59 - FM- Session 6 (2025)
Delegated powers memorandum	SP Bill 59 - DPM - Session 6 (2025)
Statements on legislative competence	SP Bill 59 – LC, Session 6 (2025)
Stage 1	
Rural Affairs and Islands Committee	
8th Meeting 2025, 5 March 2025	Cols 2 - 50
9th Meeting 2025, 12 March 2025	In private
12th Meeting 2025, 2 April 2025	Cols 2-42
14th Meeting 2025, 30 April 2025	Cols 1-72
15th Meeting 2025, 7 May 2025	Cols 1-44
16th Meeting 2025, 14 May 2025	Cols 1-42
17th Meeting 2025, 21 May 2025	Cols 2-40
18th Meeting 2025, 28 May 2025	Cols 17-64
19th Meeting 2025, 4 June 2025	Cols 1-68
20th Meeting 2025, 11 June 2025	Cols 2-15
21st Meeting 2025, 18 June 2025	In private
22nd Meeting 2025, 25 June 2025	In private
24th Meeting 2025, 10 September 2025	In private
25th Meeting 2025, 17 September 2025	In private
Stage 1 report on the Natural Environment (Scotland) Bill, 30 September 2025	SP Paper 870, 8th Report, 2025 (Session 6)
Delegated Powers and Law Reform Committee	
14th Meeting 2025, 29 April 2025	In private
19th Meeting 2025, 3 June 2025	In private
Stage 1 Report on the Bill, 3 June 2025	SP Paper 811, 40th Report, 2025 (Session 6)
Consideration by the Parliament	
Stage 1 debate on the Bill, 30 October 2025	Cols 67-108
Stage 1 debate on the Bill's Financial Resolution, 30 October 2025	Col 109
Stage 2	
1st Marshalled List of amendments (revised) for Stage 2	Revised Marshalled List of Amendments for Stage 2

Proceedings and reports	***Reference***
1st Groupings of amendments (revised) for Stage 2	Revised Groupings of Amendments for Stage 2
1st Meeting on amendments, 19 November 2025	Cols 1-96
2nd Marshalled List of amendments for Stage 2	Second Marshalled List of Amendments for Stage 2
2nd Groupings of amendments for Stage 2	Second Groupings of Amendments for Stage 2
2nd Meeting on amendments, 26 November 2025	Cols 31-60
3rd Marshalled List of amendments for Stage 2	Third Marshalled List of Amendments for Stage 2
Correction Slip to the 3rd Marshalled List of amendments for Stage 2	Correction Slip to the Third Marshalled List of Amendments for Stage 2
3rd Groupings of amendments for Stage 2	Third Groupings of Amendments for Stage 2
3rd Meeting on amendments, 3 December 2025	Cols 22-144
4th Marshalled List of amendments for Stage 2	Fourth Marshalled List of Amendments for Stage 2
4th Groupings of amendments for Stage 2	Fourth Groupings of Amendments for Stage 2
4th Meeting on amendments, 10 December 2025	Cols 1-138
Delegated Powers and Law Reform Committee	
2nd Meeting 2026, 13 January 2026	In private
3rd Meeting 2026, 20 January 2026	In private
Delegated powers in the Natural Environment (Scotland) Bill (as amended at Stage 2)	SP Paper 975, 11th Report, 2026 (Session 6)
Bill as amended at Stage 2	SP Bill 59A, Session 6 (2025)
Revised Explanatory Notes	SP Bill 59A – Revised EN, Session 6 (2026)
Revised Financial Memorandum	SP Bill 59A–Revised FM, Session 6 (2026)
Supplementary Delegated Powers Memorandum	SP Bill 59A– Supplementary DPM, Session 6 (2026)
Stage 3	
Marshalled List of amendments for Stage 3	Marshalled List of Amendments for Stage 3
Groupings of amendments for Stage 3	Groupings of Amendments for Stage 3
Stage 3 (consideration of amendments and debate)	27 January 2026, cols 17-300 28 January 2026, cols 91-241 29 January 2026, cols 116-137 and 151-153
Bill as passed	SP Bill 59B, Session 6 (2026)
Royal Assent	
Royal Assent, 12 March 2026	2026 asp 6

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

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An RRD Company

Published by TSO (The Stationery Office), part of Williams Lea, and available from:

Online
www.tsoshop.co.uk

Mail, Telephone & E-mail
TSO
PO Box 29, Norwich, NR3 1GN
Telephone orders/General enquiries: 0333 202 5070
E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

ISBN 978-0-10-592104-2

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