



ADMG Position on Stage 2 Amendments

Natural Environment (Scotland) Bill

This briefing is intended to outline the Association of Deer Management Groups (ADMG) position on amendments to the Natural Environment (Scotland) Bill. ADMG represents 47 member Deer Management Groups (DMGs), currently undertaking voluntary, collaborative deer management across 3 million hectares of the Highlands. Working closely with NatureScot, these largely privately-funded Groups provide a vital role in facilitating landscape scale, sustainable deer management practices, whilst supporting employment in fragile rural communities, and safeguarding deer welfare

Amendment	Detail	ADMG Position Notes	Supported
Protections and use of certain land (67, 67A, 303)			
67	Review of protections for certain land	These amendment would provide for legislative protection (a designation) to be assigned to land that was considered to be either restored or rewilded or where restoration or rewilding was underway. ADMG believes that many of our members are already undertaking such work and that the prospect of possible restrictions or prescriptions being used may act as a disincentive for some to undertake nature-positive work.	NO
67A	As an amendment to amendment 67, line 6, leave out and insert		NO
303	Nature conservation and land management	Amendment seeks to include the concept of damage, prevention of over-grazing to nature conservation orders and land management orders within the Nature Conservation (Scotland) Act 2004. This is essentially akin to previous attempts to introduce Deer Management Nature Restoration Orders.	NO
Scottish Natural Heritage's deer functions (215, 131, 28, 218)			
215	In section 10, page 13, line 4, leave out <promote> and insert <further>	This amendment substitutes the word “promote” for “further” in the context of NatureScot’s aims and purposes towards sustainable deer management. ADMG considers that the original wording in the Act “further” is more appropriate and strengthens a commitment to securing sustainable deer management outcomes.	YES
131	In section 10, page 13, line 7, at end insert— <(iva) to protect and promote employment in relation to deer management,>	This amendment adds the protection and promotion of employment related to deer management as a core aim and purpose of NatureScot. Securing sustainable deer management jobs for the future will be integral to delivering biodiversity and climate change outcomes for the medium to long term.	YES

28	The Scottish Ministers may by regulations transfer SNH's deer functions, conferred on it by or under this Act	This amendment provides Ministers with the power to transfer NatureScot's deer functions to any other person or body. It is not clear which other person or body the Minister considers it would be appropriate to discharge deer functions, but such an amendment is likely to generate significant apprehension in the deer sector where the maintenance of trust and confidence in the regulator is key. ADMG does not consider that it would be appropriate for another regulator, agency or person to fulfil NatureScot's deer functions.	NO
218	Leave out section 11	ADMG supports the principles of good governance and if a situation arises where a panel is required to support NatureScot or the Minister with advice, it is our view that a panel be completely independent and impartial.	YES
Management and control of deer (219, 220, 222, 223, 224, 133, 330, 225, 226, 227, 228, 229, 230, 134, 68, 231, 232, 69, 233, 331, 135, 136, 234, 137, 138, 235, 236, 29, 30, 139, 140, 237, 238, 239, 240, 142, 145, 146, 147, 144, 70, 148, 149, 150, 151, 39, 332, 251, 333.			
219	In section 12, page 13, line 27, after <management> insert <— ()>	Use of the word ("will") in the Bill as introduced traditionally signals a mandatory future action or obligation on SNH, whereas "may" allows an action and implies optionality and discretion to decide. The purpose of the Deer Code is to provide land managers with guidance for sustainable deer management, outlining their responsibilities and how to manage deer to protect public interests and natural heritage. As the Code is intended to help managers understand what they must, should, and could do to manage deer sustainably and encourage collaboration between different land managers, the use of the word ("may") feels more in the spirit of the purpose and intent of the code.	YES
220	In section 12, page 13, line 28, leave out <will> and insert <may>		
222	In section 12, page 14, line 7, leave out <10> and insert <5>	This amendment reduces the review period for measuring compliance with code of practice from 10 years to 5 years. This revised review period acts as a backstop to ensure workability of the Code.	YES
223	In section 13, page 14, line 15, leave out <in relation to> and insert <on>	Amendments 223 and 224 clarify that the ground for intervention is met in relation to damage on an area of land, rather than in relation to an area of land. There are various references to "in relation to" and "on" throughout the Bill – this amendment seeks to clarify, from the perspective of legal clarity and foreseeability, that grounds should apply to deer impacts and deer management on a particular area of land.	YES
224	In section 13, page 14, line 27, leave out <in relation to> and insert <on>		YES

133	In section 13, page 14, line 32, leave out from beginning to end of line 13 on page 15	ADMG has significant concerns on 6ZB based on the principles that any new legislation should be necessary, effective, clear, coherent and accessible and believes that the introduction of paragraph 6ZB fails against all of these principles. New legislation should be necessary. ADMG believes that the current legislation (paragraph 6ZA) is adequately applicable to situations where deer are causing “physical harm that impairs the value, usefulness or normal functioning of something” - defined as damage in the 1996 Act. As such, negative impacts of deer ie ‘damage’ in the context of ecological restoration or enhancement is already captured within the current legislation (6ZA). The RAI Committee also heard evidence that the legislation requires to be proactive, but the current legislation (6ZA) uses ‘deer or steps taken or not taken for the purposes of deer management...are likely to cause damage’ which already fulfils this proactive aspiration. New legislation should be effective. 6ZB is unlikely to be effective in its purpose given the complexity and subjectiveness of the trigger and the evidence required by SNH to be “satisfied” that grounds have been met. ADMG continues to be deeply concerned that despite a thorough consultation being undertaken by the RAI Committee, the Stage 1 Bill Report exposes apparent confusion and contradiction as to what the intention of the new power under 6ZB is, and how it will be triggered. New deer legislation should be clear, coherent and accessible. ADMG is concerned that if DMGs cannot be reassured about what new powers might mean, and when they might be used, there is a risk this could threaten the very nature of collaboration and result in an erosion of trust particularly between NatureScot and DMGs.	YES
330	In section 13, page 15, line 1, leave out <in relation to> and insert <on>	As per Amendments 223 and 224	YES
225	In section 13, page 15, line 3, after first <or> insert <materially>	This amendment clarifies that only a material reduction in the effectiveness of works, projects or natural processes – caused by deer or deer management – should be grounds for intervention. This qualification is important and will ensure that NatureScot do not act in cases where the reduction in effectiveness is immaterial, minor or trivial.	YES
226	In section 13, page 15, line 3, leave out <, a project or natural process> and insert <or projects>	This amendment removes ‘natural process’ from the list of things which could be impacted by deer or deer management in the context of the new ground for intervention based on nature restoration. ‘Natural process’ has not been defined in previous legislation and is thus unprecedented. Projects or works concerning nature restoration are generally extremely long-term.	YES
227	In section 13, page 15, line 4, after <restores,> insert <and>	The effect of these amendments is to remove reference to ‘otherwise improves’ in the context of ‘natural heritage’ and ‘environment’ under the new ground. It is difficult to understand what ‘otherwise improves’ adds given the all encompassing nature of the preceding adjectives: preserves, protects, restores, enhances.	YES
228	In section 13, page 15, line 4, leave out <, enhances or otherwise improves> and insert <and enhances>		YES
229	In section 13, page 15, line 4, leave out <, enhances or otherwise improves> and insert <or enhances>		YES

134	In section 14, page 15, line 21, leave out <or 6ZB>	Even if 6ZB is retained, ADMG supports the removal from 6ZB from Deer Management Plan on the grounds that it is wholly unreasonable and disproportionate to impose a requirement on a land owners or occupier to write a Deer Management Plan in which <u>the owner or occupier</u> has to come up with the deer management measures to be <u>undertaken on their land</u> for the purposes of securing subjective outcomes of preservation, protection, restoration, enhancement or improvement <u>on someone else's land</u> , particularly given that these outcomes will be determined by the actions or inactions of the other owner/occupiers. ADMG cannot see how effectiveness of work, projects or natural processes on someone else's land can be solely attributable to deer from another property, when the outcomes are so subjective in nature, may be impacted by a complex suite of issues such as invasive species, other herbivores, climate change etc and may take decades to be achieved.	YES
68	In section 14, page 15, line 23, at end insert— <(1A) If section 6ZA applies in respect of an area of land that a farmer or crofter occupies, that farmer or, as the case may be, crofter, may request that SNH give notice under subsection (1) to the owners of that land.>	ADMG are not supportive of this because of the potential for conflict.	NO
231	In section 14, page 15, line 27, leave out <the land> and insert <a particular area of the land>	This amendment qualifies what land is to be subject to deer management measures by owners and occupiers and set out in a deer management plan. Substituting “on the land” with “a particular are of land” standardises the language used in subsection 2.	YES
232	In section 14, page 15, line 36, leave out <3> and insert <6>	The proposed requirement to produce a deer management plan within 3 months is unrealistic for several reasons: •The availability of consultants to draw up a competent plan is often limited •A plan may require additional information such as a deer count or HIA to be undertaken which can only be effectively done at certain times of the year and again may be limited by availability of consultants to carry out the work •If the plan requires consultation with neighbours, local community interests or is part of a wider landscape scale plan, this takes time to complete.	YES
69	Lowland deer management plans	This amendment requires Ministers to create a lowland deer management plan. ADMG supports this amendment on the basis that scrutiny of deer management should extend to beyond the Highlands.	YES
331	After section 14, insert— <Community-integrated deer management model	ADMG is supportive of developing a suite a models for deer management, including those that integrate the needs and aspirations of local communities.	YES
135	In section 15, page 16, line 14, leave out <or 6ZB>	Removal of 6ZB from S7 Control Agreements - See amendment 133 rationale.	YES
234	In section 15, page 16, line 20, leave out <must> and insert <may>	SNH should be provided greater flexibility to explore and implement a range of management options and solutions to securing public interest outcomes, including the use of voluntary cooperation, incentives etc before and not just an automatic escalation to a Section 7 control agreement process.	YES

137	In section 15, page 16, line 27, at end insert— <(4A) SNH must publish, in the manner it considers appropriate— (a) any notice given under subsection (4)(a), (b) the evidence which formed the basis for the view given in that notice, (c) the proposed measures to be included in the draft control agreement mentioned in subsection (4)(b). (4B) Publication under subsection (4A) may include publication on SNH's website.>	This amendment requires that NatureScot must publish, most likely on their website, details of notice having been given about a view being formed in relation to a control agreement, as well as relevant evidence and proposed measures. It is not clear what would be achieved by publishing the notification, nor the proposed measures and supporting evidence. If transparency is what is being sought, publication of the control agreement itself – complete with redactions to ensure compliance with the GDPR – would seem more sensible.	NO
138	In section 15, page 16, line 31, leave out <or 6ZB>	Consequential of 133 - See amendment 133 rationale.	YES
235	In section 15, page 17, line 2, leave out <must> and insert <may>	SNH should be provided greater flexibility to explore and implement a range of management options and solutions to securing public interest outcomes.	YES
236	In section 16, page 17, line 9, at end insert— <() in subsection (A1), after paragraph (b) insert— “(c) a control scheme independent advisory panel has, after receiving and considering the views of both SNH and the landowner, decided that a control scheme must be implemented; and”, () after subsection (A1) insert— “(A1A) For the purposes of subsection (A1)(c), a control scheme independent advisory panel is a panel of three or more persons with relevant experience in deer management, selected by the Scottish Ministers for the purpose of deciding whether a particular control scheme should be implemented.”.>	This amendment creates an independent advisory panel to decide whether a control scheme should be implemented, based on input from both NatureScot and landowner in request. ADMG are supportive of this amendment as it introduces independent oversight, ensuring that decisions on control schemes are balanced, transparent and consider the views of both NatureScot and the landowner.	YES
29	Insert— “(A2) This subsection applies where SNH has not given notice under subsection (4) of section 7, but— (a) SNH considers that, due to the nature and character of the land, measures should be taken, and	These amendments gives NatureScot additional powers to create a control scheme without having first initiated a control agreement. This circumvents the normal procedure which requires NatureScot to have reached a view about what measures are required, after which notice can be given, a control agreement drafted and consultation initiated.	NO

30	In section 16, page 17, line 10, at end insert— <() after “(A1)” insert “or (A2)”,>	Rationale as for 29.	NO
139	In section 16, page 17, line 14, leave out <or 6ZB>	Consequential of 133 - See amendment 133 rationale.	YES
140	In section 16, page 17, line 15, at end insert— <() for “subsection (3)” substitute “subsection (3) or (8)”,>	Adds subsection 7(8) which is insufficient compliance with control agreement as grounds to move to control scheme	NO
237	In section 16, page 17, leave out line 23	This amendment removes the ability for a control scheme to provide for the extension of any time limit prescribed in the scheme. Given the cost implications of a control scheme, it seems logical that there should be reasonable checks and balances provided in relation to the scheme’s operation.	YES
238	In section 16, page 17, line 37, leave out <register in the Land Register of Scotland or (as the case may be) record in the General Register of Sasines> and insert <publish on SNH’s website>	This amendment changes the requirement from registering control schemes on the Land Register of Scotland or the General Register of Sasines to publishing the information on SNH’s website. ADMG considers that this amendment simplifies the process, making information more accessible and transparent.	YES
240	In section 16, page 18, line 15, leave out <, if appropriate,>	This amendment means that it will always be considered appropriate for NatureScot to give each relevant person a notice which provides details of the proposal including a copy of the draft control scheme or, as the case may be, the control scheme as it is proposed to be varied.	YES
142	In section 16, page 20, line 9, leave out <may> and insert <must>	This amendment means that Scottish Ministers will be required (rather than having the option) to appoint experts to provide advice in relation to control scheme objections.	YES
145	Assessment of financial and socio-economic impact assessment	ADMG supports the introduction of assessments outlining the costs of enhanced deer management, the pressures placed on neighbouring landowners and occupiers, and the potential effects on deer management jobs on adjacent properties, highlighting the impact and importance of voluntary deer management.	YES
146	Assessment of financial and socio-economic impact assessment and scrutiny of control agreements and control schemes	Currently, NatureScot has the authority to implement control agreements or schemes to manage deer populations, however, the decisions and impacts of these measures on local economies, employment, and the costs to landowners and businesses, in the context of the new powers will subject to limited scrutiny. The Panel will ensure fairness, accountability and an independent viewpoint and scrutiny of decision making on various sections.	YES
147	Control agreements and control schemes: information from public. SNH must establish a procedure by which a person may submit information or evidence demonstrating that SNH go to S7	This amendment introduces a formal process for public submissions and appeals to the Scottish Land Court regarding control agreements and schemes. ADMG does not support this amendment on the basis that it would almost certainly undermine the operation of control agreements and control schemes, largely as a consequence of increased procedural complexity and the potential to generate and exacerbate conflict.	NO

244	In section 17, page 22, line 10, leave out <registration in the Land Register of Scotland or (as the case may be) recording in the General Register of Sasines> and insert <publishing on SNH's website>	See amendment 238 rationale.	YES
70	In section 19, page 22, line 34, at end insert— <() In section 26 (right of occupier in respect of deer causing damage to crops etc. on certain ground)— (a) in subsection (1)—(i) the words “found, as the case may be, on—” are repealed, (ii) paragraphs (a) and (b) are repealed, (b) in subsection (2), the words “(other than moorland)” are repealed.>	This amendment seeks to expand the rights of occupiers to prevent damage by deer. However, in doing so, the amendment creates a significant safety issue for both landlord and occupier – as well as any employees or agents of either party. The issue stems from the fact that the occupier can kill deer without notifying the landlord, provided they have reasonable grounds to believe the killing of deer is necessary to prevent damage. This could conceivably lead to a situation where agents of the landlord and occupier are undertaking deer management or other land management activities on the same piece of land at the same time – at significant risk to the safety of both parties. The amendment could also cause significant and irreparable harm to the viability of businesses which are reliant on income from deer stalking. ADMG considers that such a consequential amendment ought to be subject to a full business and regulatory impact assessment and, if Ministers are satisfied that the policy should be progressed, it should be subject to authorisation by NatureScot.	NO
246	National Deer Management Programme	ADMG has concerns about the scale of this and what would be considered an "appropriate geographical unit". ADMG advocates that there is no "one-size-fits-all" approach to deer management and the likelihood is that our members would be disproportionately impacted by this amendment. ADMG also has concerns that the setting of annual culls over a five year period would be tantamount to statutory deer management by the back door.	NO
148	In section 22, page 24, line 16, leave out <or 6ZB>	Consequential amendments relating to removal of 6ZB	YES
149	In section 24, page 25, line 33, leave out <or 6ZB(2) (grounds for intervention: nature restoration)>		YES
150	In section 25, page 26, line 16, leave out <or 6ZB(2) (grounds for intervention: nature restoration)>		YES
151	In section 27, page 27, line 4, leave out <or 6ZB(2) (grounds for intervention: nature restoration)>		YES
39	26ZA Right of grazings committee to prevent damage by deer	As per rationale for Amendment 70.	NO
332	After section 31, insert— <Prevention of damage by deer on certain agricultural land, woodland or common grazing	ADMG supports the introduction of an authorisation process, if occupiers rights to shoot deer on any land are granted.	YES
251	After section 32, insert— <Recording and publishing deer management data Deer management dashboard	ADMG would urge caution regarding this amendment. ADMG is not against data sharing but there is a lack of clarity in the current amendment about what would constitute a geographical unit i.e. individual property level? DMG? Local Authority?	NO

333	After section 33, insert— Financial assistance for deer management	ADMG wholeheartedly supports the amendment which would make provision for meaningful incentives in support of sustainable deer management. It is widely considered by stakeholders from across the deer sector, and beyond, that financial incentives are essential for securing sustainable deer management for the future.	YES
Deer: Register of authorised persons (37, 38, 249, 250)			
37	In section 28, page 27, line 31, leave out <section 26(2)(d)> and insert <sections 26(4)(d) and 26ZA(3)>	ADMG is not supportive of this amendment on the basis that it paves the way to introduce new 26ZA	NO
38	In section 28, page 27, line 36, at end insert— <() after “26” insert “, 26ZA”>	ADMG is not supportive of this amendment on the basis that it paves the way to introduce new 26ZA	NO
249	After section 28 <Training to become authorised person The 1996 Act is modified as follows. After section 17A, insert— “17AA Training to become authorised person The Scottish Ministers must, by regulations, introduce a training scheme for persons seeking to become authorised persons for the purposes of section 17A.	ADMG is in support of a training scheme.	YES
250	After section 28, insert— <Training fund for authorised persons	ADMG supports this amendment to provide a training fund.	YES
Venison (321, 252, 322, 323, 75, 254, 255)			
321	In section 33, page 30, leave out line 2	This would enable Ministers to repeal the Venison Dealers License by regulation at a time of their choosing with the proviso that a modern, digital system is in place at that time making the current Venison Dealers License surplus to requirements.	YES
252	Leave out section 33		YES
322	Power to repeal section 33 of the 1996 Act	It is essential for food safety that there is appropriate, continuing oversight and traceability in respect of venison intended for human consumption.	YES
323	Power to repeal section 33 of the 1996 Act		YES
75	Venison action plan	ADMG supportive of these amendments 75, 254 & 255 in principle - would like to see a package being put together by the Minister.	YES

254	After section 33, insert— <Venison action plan The Scottish Ministers must prepare, publish and implement a venison action plan. The action plan must set out what action Scottish Ministers will take to— (a) ensure public bodies regularly offer venison as a meal in— (i) hospitals, (ii) schools, and (iii) workplaces,	ADMG supportive of these amendments 75, 254 & 255 in principle - would like to see a package being put together by the Minister.	YES
255	After section 33, insert— <Venison action plan The Scottish Ministers must prepare, publish and implement a venison action plan The action plan must set out how— (a) deer larders, (b) butchery facilities, and (c) distributors,	ADMG supportive of these amendments 75, 254 & 255 in principle - would like to see a package being put together by the Minister.	YES
Deer management reviews (74, 253)			
74	Review of modifications to the Deer (Scotland) Act 1996	This amendment requires the Scottish Government to carry out a review within 10 years of how the Bill's changes to the Deer (Scotland) Act 1996 are working. ADMG consider that this amendment will ensure transparent, evidence-based review of the deer management reforms.	YES
253	Review in relation to certain sections The Scottish Ministers must, before the expiry of the period of 5 years beginning with the day on which this Act comes into force, carry out a review of the operation and effect of the modifications made to the 1996 Act by sections 13 to 16 of this Act.	This amendment would require Scottish Ministers to conduct a review within 5 years of the Act coming into force. The review must cover both how the changes in sections 13–16 have operated and prepare and publish a report setting out the findings and any proposals for further action. ADMG consider that this amendment will ensure the new legislation is workable, proportionate, reasonable and practicable	YES
Forestry (11, 79)			
11	Deer fencing in forestry (1) (2) (3) Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (classes of permitted development) is modified as follows.	This amendment puts strict conditions on the use of deer fencing in a planning context.	NO

79	Financial assistance for forestry (1) (2) The Forestry and Land Management (Scotland) Act 2018 is modified as follows. In section 71 (financial assistance)— (a) after subsection (1) insert— “(1A) But the Scottish Ministers must not provide, approve or maintain any financial assistance to any person for the purpose of building deer fencing in forested areas.”, (b) in subsection (2), after “(1)” insert “and (1A)”.>	This amendment removes financial assistance for deer fencing in forested areas. ADMG would like to see the options for grant schemes to support deer fencing being retained as an important tool for establishing new woodland, in particular native broadleaves.	NO
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