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# **Animal health and welfare - Subject Profile**

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This briefing provides an overview of animal welfare and animal health policy in Scotland. It outlines key legislation, roles and responsibilities, and topical issues for domestic animals, wildlife, and farmed animals ahead of Session 6 of the Scottish Parliament.



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# Introduction

Animal welfare is a devolved matter. Areas of regulation and policy on animal welfare include:

- **Farm animal welfare** - i.e. Animal health and welfare in the livestock industry, including the welfare of animals in transit, and welfare standards in relation to slaughter.
- **Pet animal welfare** - i.e. Regulations on pet breeding, rehoming centres, animal sanctuaries and dangerous dogs.
- **Zoos, circuses and performing animals**
- **Animal welfare issues relating to wildlife and wildlife management**

Animal health is also a devolved matter. Areas of regulation on animal health include disease surveillance, prevention and response, and biosecurity.

Relevant legislation is set out throughout the briefing, however the key overarching piece of legislation in this policy area is [the Animal Health and Welfare Scotland \(Act\) 2006](#), which sets out a legal framework for the health and welfare of all protected animals in Scotland. The Act places a duty of care on anyone responsible for animals to ensure that the welfare needs of their animals are met.

## Scrutiny in Session 5 - ECCLR Legacy Report

The Environment, Climate Change and Land Reform Committee made recommendations in its Session 5 legacy report for scrutiny of animal welfare issues by successor Committees <sup>1</sup> :

“ Successor committees may wish to engage with the new Scottish Animal Welfare Commission on its workplan and priorities including any work on animal sentience, to inform its approach to animal welfare during the next Parliamentary sessions. Opportunities for future work and influence may include:”

- Exploring the relevance of animal welfare standards to Scotland’s resilience to zoonotic diseases;”
- Engaging with any future legislation on fox control;”
- Engaging with NatureScot on relevant workstreams on wildlife management relevant to animal welfare such as its forthcoming review of snaring, and;”
- Considering the petition on greyhound racing in Scotland.”

Animal welfare (as well as related topics such as deer management, salmon farming, and wildlife crime) was also [identified by stakeholders involved in ECCLR Committee-run deliberative engagement](#) as a priority for them engaging with Committees in Session 6.

# EU exit and animal welfare

EU law includes a wide range of legislative provisions concerning animal welfare and animal health, in particular relating to farmed animals and welfare standards in relation to animals in transit. Under the EU treaties, animals are also recognised as sentient beings, and in consequence, the EU and the Member States must pay due regard to the welfare requirements of animals when preparing and implementing EU policies.

## Retained law

For the purposes of legal continuity, the UK Government wished to preserve, as far as possible, the legal position which existed immediately before the end of the transition period. This was sought to be achieved by taking a “snapshot” of all of the EU law that applied in the UK at the point of EU exit and bringing it within the UK's domestic legal framework as a new category of law, known as “retained EU law”. The creation of this new category of UK law was one of the main purposes of [the European Union \(Withdrawal\) Act 2018](#).

The process of taking that 'snapshot' of retained law began in Session 5 and involved the scrutiny of a large volume of secondary legislation, both as Scottish Statutory Instruments (SSIs) and UK Statutory Instruments (SIs) where [consent of the Scottish Parliament on the exercise of devolved powers by UK Ministers was sought via an SI Protocol](#). A number of instruments related to animal welfare and animal health.

This means that, broadly, EU animal welfare standards (as they were at the point of EU exit) still apply in Scotland as 'retained law'.

## Keeping pace

Following the UK's departure from the EU there is no longer a requirement to continue to comply with EU law. However, the Scottish Government has indicated that, where appropriate, they would like to see Scots law continue to align with EU law, and committed that there will be no regression in standards <sup>2</sup>.

The [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021](#) confers a power on Scottish Ministers to allow them to make regulations with the effect of continuing to keep Scots law aligned with EU law in some areas of devolved policy - the “keeping pace” power. The Act also sets out that the purpose of use of this power is to contribute towards maintaining and advancing standards in relation to specified matters - including for 'animal health and welfare'.

The Act requires the Scottish Government to publish a statement setting out their policy on, and how decisions will be made about, the use of the keeping pace power. The Act also requires the Scottish Government to produce an annual report of the use of the keeping pace power, which might also indicate future intentions of plans regarding alignment with EU law.

## Common Frameworks

Prior to EU exit, EU law in areas such as animal welfare served to provide a 'common floor' of standards across the UK and helped to manage divergence of standards. Common Frameworks will feature strongly as a ‘pillar’ in the post EU-exit governance

landscape with the aim of managing regulatory divergence now that Scotland, England and Wales are outside the EU Single Market. Common Frameworks are agreements on approaches to regulation being developed in a number of areas between the UK and devolved governments. Interim Common Frameworks are in place but have not been published, and none are yet finalised. They could be used to set out common ambitions or targets, regulatory floors, governance or other cooperation systems. They could thus operate to mitigate risks of competitive deregulation arising from the removal of the EU 'common floor' of standards.

[Legislative common frameworks](#) for UK nations are expected to be required for animal health and welfare.

### **The EU-UK TCA - how does the 'Brexit Deal' impact on Scotland's animal welfare standards?**

The [EU-UK Trade and Cooperation Agreement](#) (TCA or 'the Agreement') was applied provisionally from 1 January 2021 and entered into force on 1 May 2021. In the preamble to the Agreement the parties recognise the other's autonomy and rights to regulate within their territories "in order to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, animal welfare, privacy and data protection and the promotion and protection of cultural diversity, while striving to improve their respective high levels of protection".

In Article 84 of the Agreement, the UK and the EU agree the following:

1. The Parties recognise that animals are sentient beings. They also recognise the connection between improved welfare of animals and sustainable food production systems.
2. The Parties undertake to cooperate in international fora to promote the development of the best possible animal welfare practices and their implementation. In particular, the Parties shall cooperate to reinforce and broaden the scope of the OIE animal welfare standards<sup>i</sup>, as well as their implementation, with a focus on farmed animals.
3. The Parties shall exchange information, expertise and experiences in the field of animal welfare, particularly related to breeding, holding, handling, transportation and slaughter of food producing animals.
4. The Parties shall strengthen their cooperation on research in the area of animal welfare in relation to animal breeding and the treatment of animals on farms, during transport and at slaughter.

The Agreement also includes Level Playing Field (LPF) provisions – the notion that there should be comparable standards of environmental protection, and in other areas such as workers' rights, across the territory of a free trade agreement. Animal welfare standards are not specified as being covered by these LPF provisions.

It appears therefore, that there is more scope for divergence of animal welfare standards between the UK and the EU in future under the TCA, compared to environmental standards for example, where there are stronger provisions aiming at some level of

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<sup>i</sup> 'OIE' refers to the [World Organisation for Animal Health](#), which has developed global animal welfare standards in consultation with member states and stakeholders.



regulatory 'floor'. However, these aspects of the TCA remain to be tested given it is still a new relationship.

## The UK Internal Market Act

The [UK Internal Market Act 2020](#) (IMA) was developed in anticipation of leaving the EU single market, which previously facilitated intra-UK trade, and aims to create a coherent approach to market access and support for the UK internal market (in combination with Common Frameworks).

Two **market access principles** for goods and services are enshrined in the Act:

- The **principle of mutual recognition** means that any good or service that meets regulatory requirements in one part of the UK can be sold in any other part, without having to adhere to the relevant regulatory requirement in that other part;
- the **non-discrimination principle** establishes a prohibition on direct or indirect discrimination based on treating local and incoming goods and services differently (with some exceptions specified, including pesticides and fertilisers)

The principle of an [internal market has support from many stakeholders from the perspective of facilitating internal trade](#). However, there are questions regarding whether the Act could contribute to a race to the bottom on regulation.<sup>3</sup>

On the face of it, the IMA does not affect the ability of the devolved governments in Scotland and Wales to continue to regulate on animal welfare as they wish. However, in practice, the market access principles in the IMA mean that any changes that lower regulation in another part of the UK, or any unilateral increase to standards in Scotland, could place Scottish business at a disadvantage. This is because products produced in or imported into another part of the UK may still be sold in Scotland regardless of Scotland's domestic production standards, if the standards in another part of the UK allow them to be sold there.

This could render certain policy interventions less effective, or potentially unworkable, unless pursued at UK- level, or unless there is explicit agreement about areas of divergence e.g. through Common Frameworks. Such interactions were raised in the Scottish Parliament's scrutiny of the Internal Market Bill, which the Parliament did not give its consent to, with the Scottish Government stating the Bill would "encourage deregulation". This has yet to be tested through real examples of divergence.

The Scottish Government published its analysis of implications of the UK Internal Market Act for devolution in March 2021, which states<sup>4</sup> :

" Scottish businesses want to compete on quality and provenance as well as cost, but Scotland's high food safety, animal welfare and environmental standards would be undermined by the requirement to accept lower standards set elsewhere. In addition, the Act could undermine the ability of consumers in Scotland to make informed food choices, as the Act prevents the Scottish Parliament from legislating to require appropriate labelling for all such products sold in Scotland. The reputation for quality that underpins our worldclass food and drink industries, and the many thousands of jobs they support, could be undermined by the imposition of lower standards on Scotland."

## Future trade deals

Animal welfare is one area which may be affected by future trade deals.

Prior to EU exit, the UK was covered by trade agreements between the EU and third countries, and did not have bilateral agreements with non-EU countries on its own. Having left the EU, the UK may strike Free Trade Agreements (FTAs) with other countries, but is no longer covered by the arrangements that that country has with the EU. This has meant that the UK Government has embarked on negotiations to strike new deals with other countries, such as with Australia.

In negotiating new trade agreements, such as with Australia, [stakeholders have expressed concern there could be pressure to reduce UK standards if UK food producers need to compete with imported products produced to lower standards](#), and as result, at a lower cost.

As a result of these concerns, during the passage of both the UK Agriculture Bill and the UK Trade Bill (both now Acts) MPs attempted to amend the legislation to require imported products to conform to UK standards.

These attempts were not successful; however, in response to concerns, the [UK Government set up a non-statutory Trade and Agriculture Commission in July 2020](#). It was set up to advise the government on trade policies to ensure that UK agriculture remains competitive, and that environment and animal welfare standards are not undermined. The Commission was initially launched for a six-month period to report on trade and agriculture issues.

However, [the Commission was put on a stronger footing in November 2020](#) in the final stages of passing the [Agriculture Act 2020](#) and the [Trade Act 2021](#). The Agriculture Bill was amended to require the Secretary of State to report to the UK Parliament on “whether, or to what extent” future free trade agreements

“are consistent with the maintenance of UK levels of statutory protection in relation to—

- (a) human, animal or plant life or health,
- (b) animal welfare, and
- (c) the environment.”

At the same time, the Trade and Agriculture Commission was given a statutory role in providing advice on free trade agreements to the Secretary of State in the Trade Act. The Secretary of State must seek the advice of the Commission before producing such a report for Parliament under the Agriculture Act. However, the statutory Trade and Agriculture Commission is yet to be established, and [the UK Government has faced calls to ensure it is set up in time to scrutinise new trade deals such as the one with Australia](#).

Trade policy is devolved to the UK Government, and devolved administrations do not have a formal role in trade negotiations. The UK Government has committed "that in all of our trade negotiations we will not compromise on our high environment protection, animal welfare and food safety standards" <sup>5</sup>. However, [stakeholders, such as the British Veterinary Association, have questioned what safeguards will be in place](#).

It is possible that new trade agreements will result in the import of products that are

produced to different animal welfare standards than are required in Scotland specifically. As discussed above, as a result of the UK Internal Market Act, if regulations in one part of the UK allow products to be sold on that country's market, these products will also be allowed to be sold on the Scottish market.



# Animal sentience

Following EU exit, there has been discussion of whether UK law sufficiently recognises animal sentience.

'Sentience' refers to the ability to experience feelings and emotions such as joy, pain, stress, and comfort. Scientific studies show that a wide range of animals are sentient <sup>6</sup>.

When the UK was a member of the EU, animal sentience was explicitly recognised in Article 13 of the Treaty on the Functioning of the EU. Article 13 states:

“ In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.”

Following EU exit, there were discussions around the implications of the UK no longer being covered by this principle. [Some argue that animal sentience is recognized implicitly in UK animal welfare legislation](#), whilst other organisations, such as the [British Veterinary Association](#), and animal welfare organisation [OneKind](#), have stated that unlike in Article 13, there is no requirement for Ministers in existing Scottish and UK legislation to have regard to the welfare requirements of animals when formulating and implementing new policies and legislation.

The Scottish Government has stated that "it fully accepts the scientific basis for animal sentience and will take all appropriate action to safeguard animal welfare standards." <sup>7</sup>

In addition, it is part of remit of the newly established [Scottish Animal Welfare Commission](#) to look at

- how the welfare needs of sentient animals are being met by devolved policy; and
- possible legislative and non-legislative routes to further protect the welfare of sentient animals

The Scottish Animal Welfare Commission [published a statement on animal sentience in February 2021](#), and set out in its July 2021 workplan that it was working towards producing a report on animal sentience to advise the Scottish Government.

At a UK level, the [Animal Welfare \(Sentience\) Bill was introduced in the House of Lords in July 2021](#). The purpose of the Bill is to "to make provision for an Animal Sentience Committee with functions relating to the effect of government policy on the welfare of animals as sentient beings". The provisions in the bill do not apply to devolved policy, but extend to Scotland in reserved areas. The majority of subjects related to animal welfare are devolved, though some areas, such as animals in scientific research are reserved.

# UK Animal Welfare (Kept Animals) Bill

The UK Government introduced the UK Animal Welfare (Kept Animals) Bill in the House of Commons on 8 June 2021 [with the aim to](#) "improve welfare standards through a wide range of measures for pets, farmed and kept wild animals, including through a ban on keeping primates as pets".

Certain provisions in Part 3 of the Bill, relating to kept animals, apply in Scotland and impact on devolved areas, and as such [the Scottish Government has lodged a Legislative Consent Memorandum \(LCM\)](#).

Provisions which apply in Scotland include those relating to:

- Exports of live animals for slaughter;
- Enabling Scottish Ministers to amend or revoke retained direct EU legislation;
- Creating powers for the appropriate national authority to make regulations about the importation of relevant animals (dogs, cats or ferrets) into Great Britain for the purpose of promoting animal welfare;
- The regulation of and standards applying to zoos.

## Introduction of shared powers in devolved areas

The Bill creates powers for the UK Secretary of State to introduce Regulations in some devolved areas of animal welfare regulation with the consent of Scottish Ministers. The Scottish Government states in the LCM that this "will allow consistent regulations to be brought into force simultaneously across Great Britain where the policy objectives of UK and Scottish Ministers are aligned and there are no good reasons for having separate Scottish subordinate legislation". The LCM also states that in these cases the Scottish Ministers consider that the Protocol on scrutiny by the Scottish Parliament of consent by Scottish Ministers to UK secondary legislation in devolved areas arising from EU exit would apply.

This is similar to the approach taken to some areas of post-EU exit regulation in the UK Environment Bill, where UK Regulations can be introduced by the UK Government in devolved areas with Scottish Ministers' consent. [This approach raised some controversy in Session 5 with concerns raised about the implications for scrutiny](#) of Regulations in the Scottish Parliament.

# Scottish Animal Welfare Commission

The [Scottish Animal Welfare Commission](#) (SAWC) was established in 2020 under [The Scottish Animal Welfare Commission Regulations 2020](#). The SAWC is an independent Commission with a focus on protecting wild and domestic animals and providing scientific and ethical advice to the Scottish Government on its areas of responsibility. Animal welfare in SAWC terms is relevant to [sentient animals - those with 'the ability to have physical and emotional experiences, which matter to the animal, and which can be positive and negative'](#).

The Commission will specifically look at:

- how the welfare needs of sentient animals are being met by devolved policy
- possible legislative and non-legislative routes to further protect the welfare of sentient animals
- the research requirements to provide an evidence base for future policy development

The Commission will produce an annual report setting out how it has delivered against its work plan, to be laid before the Scottish Parliament.

An [updated work plan for the SAWC was published in July 2021](#) which outlines priority projects for the Commission. Some of those project themes are:

- **Animal sentience** - to prepare a report which builds on SAWC's previously published definition of animal sentience ([published in February 2021](#)), to demonstrate SAWC's approaches and explain why cephalopods (e.g. octopuses, squid and cuttlefish) have been included in the definition. The SAWC defines animal welfare as: 'the mental and physical state of an individual as it experiences and engages with its environment'. There are live campaigns by Scottish animal welfare NGOs calling on the Scottish Government to introduce legal protections for decapod crustaceans (e.g. Crabs and lobsters) and cephalopod species on the basis of increasing evidence about their sentience.
- **Exotic pets** - to consider and report on issues relating to current practices, regulation and issues with importation, and recommend whether there is a need for further statutory measures to regulate ownership of certain types of pets.
- **Wildlife welfare** - to review the Scottish Government's Strategic Approach to Wildlife Management.
- **Beavers** - to investigate and make recommendations on welfare issues associated with the management and control of wild beavers in Scotland (currently paused while a judicial review, considering the issue of licences for killing beavers, is underway).
- **Aquaculture** - to identify potential welfare issues and prepare a report on the areas of initial focus – salmon farming and acoustic deterrent devices.
- **Dog training** - to provide an opinion on how dog trainers, groomers, dog walkers and other service providers can be regulated and managed, including whether there should be licensing of these service providers. This is expected to include

consideration of training practices, such as the use of electronic collars, and may link to livestock worrying and responsible dog ownership. The Scottish Government [consulted on the use of electronic training devices for cats and dogs in 2016](#)— including remote control training collars, anti-bark collars and pet containment fences. The Government decided that legislation was not required, [and issued guidance stating that it did not condone the following dog training devices](#): electronic shock collars and anti-bark collars, electronic containment systems, or any other method to inflict physical punishment or negative reinforcement.

Published work by the Commission so far includes:

- On the use of rodent glue traps - the [SAWC recommended banning their sale and use as a priority, but also offers alternative ways forward](#);
- A response to the [Deer Working Group report](#) - the SAWC reported the [extent to which it agrees with each recommendation of the report](#);
- In April 2021, the SAWC wrote a letter to the (former) Minister for Rural Affairs and the Natural Environment [outlining concerns and recommending measures to discourage ear cropping of dogs](#).

Other potential areas raised in the workplan for the medium and longer term include:

- Exploring wider issues in relation to **trapping and snaring**;
- **Greyhound racing** - to explore welfare concerns, recognising that currently the

Greyhound Board of Great Britain only covers licensed tracks, to address issues with unlicensed tracks. A [petition to end greyhound racing in Scotland](#) was lodged in the Scottish Parliament in 2019;

- **Abattoir provision** and opportunities for mobile slaughterhouses.

# Covid-19 and animals

The [Scottish Government provides the following information and guidance](#) about the incidence and risk of infection of Covid-19 in animals and the consequent risk for people:

- There is limited evidence that some animals, including pets, can become infected with Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes Covid-19), following close contact with infected humans.
- In several countries in the world, incidents of infections in animals have been reported in companion animals (mostly cats and dogs), in a limited number of zoo animals and on mink farms. The majority had contact with infected humans, or humans introduced the infection that then spread among animals, such as farmed mink.
- In the UK, there is no evidence of the virus circulating in livestock, cases in pet animals are very rare, and there are no mink farms. Covid-19 is driven by human to human transmission.
- [General guidance has been issued for farmers, crofters and other agricultural workers](#) about how to work safely and prevent the spread of Covid-19.
- SARS-CoV-2 is a reportable disease - from 22 February 2021, there is a legal obligation in Scotland to report the presence of SARS-CoV-2 in all mammals (except man). Reports should be made to [the relevant local Animal and Plant Health Agency \(APHA\) Field Services Office](#).

# Domestic animals

## Key legislation, roles and responsibilities

### Key legislation

The welfare of all protected animals is provided for under the [Animal Health and Welfare Scotland \(Act\) 2006](#). The Act places a duty of care on pet owners and others responsible for animals to ensure that the welfare needs of their animals are met. The Scottish Government have provided [guidance on interpretation of the Act](#).

The Animal Health and Welfare (Scotland) Act 2006 makes it an offence to cause a protected animal unnecessary suffering. A “protected animal” is defined in section 17 and in these circumstances would normally relate to any animal under the control of man.

The [SNP manifesto states](#) "We will modernise and update the Animal Welfare Act from 2006". It is currently unclear what the scope of those reforms could be.

The [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#) increased penalties for certain offences in the 2006 Act, so that the maximum penalty for both causing unnecessary suffering to animals and for organising or participating in animal fighting, is now five years imprisonment and an unlimited fine. Time limits on bringing proceedings for these offences are also extended by virtue of making them triable on indictment.

Other key changes made by the 2020 Act include:

- The creation of new delegated powers to allow **Fixed Penalty Notice (FPN) regimes** to be developed for less serious animal health, animal welfare and wildlife offences, outwith the court system. These [are expected to be introduced in future secondary legislation](#).
- The removal of the need for a court order (as long as certain procedures are followed) where enforcement authorities (local authorities or the SSPCA) seek to rehome, sell or destroy animals that have been taken into possession because they are suffering or likely to suffer - which aims to **speed up the process of rehoming** to benefit animal welfare.
- A change where a person is charged with **harming a service animal** e.g. a police dog, to prevent the accused from claiming they did so in self-defence, so called 'Finn's law';
- Strengthened requirements on courts to consider issuing a **disqualification order** in every case where a person is convicted of a serious animal welfare offence e.g. an order preventing that person from keeping certain animals in future.

### Roles and responsibilities

The Scottish Government published a series of Codes of Practice on the welfare of pet animals in 2010: [Welfare of cats: code of practice](#), [Welfare of dogs: code of practice](#), and [Pet rabbit welfare guidance](#). The guidance aims to support people to fulfil their duty of care for pets under the [Animal Health and Welfare \(Scotland\) Act 2006](#).



Powers to enforce a number of provisions of the [Animal Health and Welfare \(Scotland\) Act 2006](#) lie with “inspectors” - usually local authority animal health and welfare inspectors or employees of the Scottish SPCA, and “constables” i.e. Police Scotland. Inspectors have powers to enter and search properties under warrant, seize animals and issue Animal Welfare Notices (statutory care notices).

**Local authorities** hold a number of functions, enforcement powers and responsibilities in relation to animal welfare, such as:

- Licensing breeders and animal sanctuaries under the [Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021](#) (more information on which is in the following section);
- A responsibility to provide a stray dog service under the [Environmental Protection \(Stray Dogs\) Regulations 1992](#);
- Inspecting and licensing pet shops under [the Pet Animals Act 1951](#) (as amended);
- Powers to serve dog control notices (DCNs) under [the Control of Dogs \(Scotland\) Act 2010](#) on persons responsible for out-of-control dogs;
- Registering trainers or exhibitors of performing animals under the requires trainers and exhibitors of such animals under [the Performing Animals \(Regulation\) Act 1925](#)
- To issue care notices under the [Animal Health and Welfare \(Scotland\) Act 2006](#), requiring someone responsible for an animal to take steps to secure the welfare of the animal.

**Inspectors in the Scottish SPCA** have powers under the [Animal Health and Welfare \(Scotland\) Act 2006](#) to enter and search properties under warrant, seize animals and issue Animal Welfare Notices. Inspectors [seek to offer advice and assistance and resolve concerns](#) before taking animals into possession and reporting people for prosecution.

## Regulation of pet breeding, rehoming centres and animal sanctuaries - 2021 reforms

The [Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021](#), coming into force September 2021, strengthen the regulation of the breeding of certain pets, ban the third-party sale of young dogs and cats, and introduce licensing of animal sanctuaries and rehoming centres. The Regulations are introduced under powers contained in the Animal Health and Welfare Act (Scotland) 2006. The Regulations seek to address concerns around the regulation of activities such as pet breeding being outdated, with activities moving online and away from pet shops for example.

The 2021 Regulations require:

- Anyone breeding 3 or more litters of puppies in any 12-month period to be licensed by the licensing authority for the activity of dog breeding.
- Anyone breeding 3 or more litters of kittens in a 12 month period to be licensed by the local authority for the activity of cat breeding.

- Anyone breeding 6 or more litters of kits in any 12-month period will need to be licensed by the local authority for the activity of rabbit breeding.

Various licence conditions are attached to such a licence.

The instrument also includes provision to end the third-party sale of young dogs and cats by pet sellers, an activity that [the Scottish Government said, in introducing the 2021 Regulations](#), "has increasingly become linked to low-welfare breeders".

The instrument requires any person operating an animal welfare establishment (AWE), i.e. an animal sanctuary or rehoming centre, to be licensed by the local authority. Licence holders must maintain a register of all the animals in their care and ensure that any advertisement for rehoming of an animal includes the licence number and the name of the authority that issued the licence. Operators of AWEs must ensure that any prospective keepers are provided with advice and information on how best to care for the animal.

## Dangerous dogs and dog control

There are [an estimated 600,000 pet dogs in Scotland](#). All dogs over eight weeks old in Scotland must be microchipped under [the Microchipping of Dogs \(Scotland\) Regulations 2016](#). Further information and guidance [can be found on the Scottish Government website](#).

The main criminal law legislation that operates in Scotland in relation to dogs is [the Dangerous Dogs Act 1991](#).

The [Control of Dogs \(Scotland\) Act 2010](#) gave powers to local authorities to help control dogs within communities. Powers were granted to local authorities to be able to impose dog control notices (DCNs) on dog owners who allowed their dogs to be out of control, aimed at requiring dog owners to take more responsibility for their dogs.

A [consultation on the effectiveness of the Control of Dogs \(Scotland\) Act 2010](#) was held in 2019 in response to issues being raised about the effectiveness of the regime, and [Updated guidance on the Control of Dogs \(Scotland\) Act 2010](#) was published in 2020.

A further [consultation on the criminal law relating to dangerous dogs was published in February 2021](#), stating that though the vast majority of dog owners are responsible, a minority do not properly control their dogs. The consultation seeks to identify steps to improve safety, particularly in public places. Its focus is on section 3 of the 1991 Act which deals with threatening behaviour or attacks by any type of dog and how it is treated as an offence. The consultation states that outcomes of the consultation will "help shape decisions in the next Parliamentary session as to what legislative changes should be progressed".

During Committee consideration of the Dogs (Protection of Livestock) (Scotland) Bill in session 5 (now [the Dogs \(Protection of Livestock\) \(Amendment\) \(Scotland\) Act 2021](#)), [several stakeholders raised that a more comprehensive review of dog control legislation should be undertaken](#).

# Wildlife

## Key policy, legislation, roles and responsibilities

'Wildlife management' is essentially about the interaction between people and nature. It is often used as a term when species management is employed e.g. to protect habitats or to mitigate conflicts or tensions between wildlife and human activities. Animal welfare issues can arise where species or habitats are managed for specific outcomes.

In 2020, NatureScot published a [Shared Approach to Wildlife Management Concordat](#), outlining high-level goals for wildlife management in Scotland including safeguarding animal welfare. A number of organisations are committed to the approach, such as the Scottish Gamekeepers Association and the National Trust for Scotland.

Wildlife management policies are [outlined on the Scottish Government website](#). There is significant cross-over between animal welfare aspects of wildlife management policy and regulation, and other policy areas in relation to environmental, land use, biodiversity and conservation impacts, and wildlife crime. Environmental issues in relation to wildlife management and wildlife crime are discussed further in the SPICe Environment Subject Profile.

### Key legislation

Wildlife legislation relevant to animal welfare is spread across several different Acts. Key pieces of legislation include:

- [Wildlife and Countryside Act 1981](#)
- [Protection of Wild Mammals \(Scotland\) Act 2002](#)
- [Nature Conservation \(Scotland\) Act 2004](#)
- [The Conservation \(Natural Habitats Etc\) Regulations 1994](#)
- [Wild Mammals \(Protection\) Act 1996](#)
- [Deer \(Scotland\) Act 1996](#)
- [Control of Trade In Endangered Species \(Enforcement\) Regs 1997](#)
- [Protection of Badgers Act 1992](#)
- [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003](#)

Recently, [the Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#) increased maximum penalties for the most serious wildlife offences. This followed an [independent review of wildlife crime penalties](#) which made a number of recommendations in 2015 ('the Poustie review'). The Act increased maximum penalties for over 50 separate wildlife offences and allowed Police Scotland more time to investigate potential crimes.

It also expanded the use of vicarious liability - where a person who has or manages land can be held responsible for crimes committed by someone else on that land. Vicarious

liability was introduced by the Wildlife and Natural Environment (Scotland) Act 2011 in relation to certain offences against birds of prey. The 2020 Act expanded vicarious liability for certain offences relating to the trapping and snaring of animals.

Some further information on key areas of policy development, or more contentious areas in relation to animal welfare and wildlife is set out below.

## Roles and responsibilities

**Police Scotland** are the lead agency for enforcing wildlife law in Scotland.

**NatureScot** are the lead agency on wildlife policy and fulfil various licensing functions in relation to wildlife management e.g. Issuing licences for lethal or non-lethal control of certain species. They also assist both the police and the Crown Office and Procurator Fiscal Service by providing expert advice for wildlife crime cases.

**The SSPCA** and their Special Investigations Unit (SIU) can lead or support certain wildlife crime investigations in Scotland, if the circumstances fall under the terms of the Animal Health and Welfare (Scotland) Act 2006. During scrutiny of [the Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#), the potential benefits of expanding the SSPCA's powers to investigate wildlife crime were discussed, and [the Scottish Government agreed to establish a taskforce](#) to explore this further. It is not clear how this has progressed.

## Fox hunting

Fox hunting is currently covered by the [Protection of Wild Mammals \(Scotland\) Act 2002](#) which placed restrictions on hunting with dogs, in response to cruelty concerns about the practice of fox hunting in particular, and other practices including hare coursing.

The Act creates an offence of hunting a wild mammal with a dog, subject to a number of exceptions. The exceptions permit a person to use dogs to stalk or flush out a wild mammal to be shot for certain specified purposes, which includes for the purpose of controlling numbers of a pest species and protecting livestock, ground-nesting birds, timber, fowl (including wild fowl), game birds or crops.

Since the Act came into force, mounted hunts i.e. organised fox hunting groups on horseback continued to practise fox hunting, by offering farmers, landowners and estate managers a pest control service using the pack of hounds to flush out a fox or foxes to be shot by placed guns, a practice that was not followed by any of the mounted hunts prior to 2002<sup>8</sup>.

In 2015, the Scottish Government commissioned an independent review of the operation of the 2002 Act by the Right Hon Lord Bomy to ascertain whether it was providing a sufficient level of protection for wild mammals, while at the same time allowing effective and humane control of animals, such as foxes.

The [report, published in 2016 \('the Bomy review'\)](#) included a number of recommendations for change, including amendments to the 2002 Act. In 2017, [the Scottish Government undertook a public consultation on Lord Bomy's suggested reforms](#). The Scottish Government then announced in 2019 that legislation would be

introduced in session 5 "to close potential loopholes in the law protecting foxes and other wild mammals", and which would implement changes proposed in the Bonomy review. It was expected that this would mean proposals for legislation to limit to two the number of dogs that can be used to flush or find a fox, with the potential for the option of a licensing scheme to permit the use of more than two dogs, if deemed necessary for pest control.

The Scottish Government [announced in April 2020 that Government work had been paused on the development of a Bill](#) due to the pandemic. The [SNP manifesto said in 2021](#) "We will legislate to close loopholes in the law protecting foxes and other wild mammals" - suggesting that the above proposals for legislation will return in session 6.

## Grouse moors

A Grouse Moor Management Group was established by the Scottish Government in 2017 to examine the environmental impact of practices on grouse moors and advise on the option of licensing grouse shooting businesses.

The [final report \(the 'Werritty report'\)](#) in 2019 made a number of recommendations to strengthen regulation and for non-legislative measures<sup>9</sup>. The [Scottish Government's response to the report in 2020](#) announced plans, if re-elected, to legislate to license grouse moor businesses during the next parliamentary term, preceded by consultation, as well as plans to make other regulatory and non-regulatory changes in relation to grouse moor management practices. This legislation is likely to attract significant debate and may link to wider issues around the management of Scotland's uplands.

Drivers for increased regulation of grouse moor management relate largely to issues around environmental protection and biodiversity. However, the Werritty report also considered animal welfare concerns, for example in relation to the use of trapping and snaring on grouse moors as a means of predator control (to maintain high numbers of red grouse). The Scottish Government agreed in its response to the Werritty review to amend legislation on the use and monitoring of traps as part of its work to develop a licensing regime for grouse moor management.

The use of snares to trap wildlife is governed by the [Wildlife and Countryside Act 1981](#) (as amended by [the Wildlife and Natural Environment \(Scotland\) Act 2011](#)). Those regulations require snaring operators to be trained, for their snares to be identified by a tag containing an ID number registered with NatureScot and for them to keep records, which have to be made available to Police Scotland on request.

### Mountain hares - additional protection from 2021

In 2021, protection was increased for mountain hares in response to conservation and animal welfare concerns about the numbers of mountain hares being culled as part of grouse moor management practices. [The Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#) provided that from 1 March 2021 mountain hare are included on Schedule 5 of the Wildlife & Countryside Act 1981 (as amended), giving them full protection. This means that at any time of the year, anyone who intentionally or recklessly kills, injures or takes mountain hare without a licence will be acting unlawfully. A [licensing system has been developed by NatureScot](#).

## Beavers

Beavers are protected by law in Scotland as a European Protected Species. This protection came into force on 1st May 2019 under [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2019](#) and was the culmination of a decade-long process since beavers were released as part of a trial reintroduction in 2009.

NatureScot can issue licences for the control of beavers including for lethal control and dam removal, according to its [Scottish Beaver Management Framework](#). Some beavers have also been [trapped and translocated to projects in England](#). The extent of use of lethal control as part of this new management regime for beavers has been the subject of debate, with concerns from some NGOs about the extent of lethal control relating to both animal welfare and conservation. There has been a recent (as yet undecided) [judicial review of NatureScot's licensing practices](#) in this area. In 2020, [115 beavers were killed under 19 licences](#).

One of the areas of debate around beaver management is about the welfare implications of the culling of pregnant beavers and young beaver kits. NatureScot recognises that beaver licensing is still a new practice requiring review to ensure changes are made where appropriate. In August 2021 [it was announced by NatureScot that changes are planned](#) with the effect that "licences will no longer cover the period of the Kit Dependency Period" i.e. [the period during which kits are dependent on their mothers](#), and licence holders that require to take action during this time will need to apply for an exceptional licence.

## Deer

Two inquiries into deer management have been carried out by Parliamentary committees in recent years - one in 2013 carried out by the Rural Affairs, Climate Change and Environment (RACCE) Committee (Session 4) and one in 2017 by the Environment, Climate Change and Land Reform (ECCLR) Committee (Session 5). Both inquiries found that insufficient progress had been made to address deer management issues and recommended further work. In the most recent inquiry, [the ECCLR Committee concluded by recommending that an independent working group be set up](#).

As a result, the [Deer Working Group](#) was established by the Scottish Government in 2017. It was asked to review the existing arrangements for the management of wild deer in Scotland, and to make recommendations for changes to ensure their sustainable management. A comprehensive final report, [The management of wild deer in Scotland: Deer Working Group report](#) was published in 2020. The group considered and made recommendations on a range of deer management issues.

There are many drivers for reforming deer management. The most prominent driver is the protection of other public interests, such as the need to address climate change and biodiversity loss by protecting forests, peatlands and other habitats from too much pressure from grazing animals.

The welfare of wild deer is another driver. In relation to animal welfare, the group made recommendations regarding how wild deer can be killed lawfully, the times of day and year when deer can be killed lawfully, monitoring deer health, and deer welfare in relation to a number of topics, including land management and winter mortality.



In response to recommendations, the Scottish Government said in March 2021 that "now is the time to step-up our deer management work".

The Government accepted most of the recommendations in the report, with the caveat that many are detailed and will require further careful consideration or consultation. As part of its response, the Government committed to bring forward proposals to modernise the Deer (Scotland) Act in the next parliamentary term.

[NatureScot \(formerly Scottish Natural Heritage\)](#) have had responsibility for deer management under the Deer (Scotland) Act 1996 since 2010.

## Seals and acoustic deterrent devices

Animal welfare issues have arisen in relation to interactions between seals and the Scottish aquaculture sector - as seals attempt to access fish farms to hunt, and farmers may seek to deter them or kill them. This section deals with seal animal welfare only, [other animal welfare issues in relation to aquaculture are discussed in a later section](#).

### Ending the legal shooting of seals by Scottish fish farms

Until 2021, it was possible for fish farms to shoot seals, under license, under the Marine (Scotland) Act 2010, to protect the health and welfare of farmed fish, or to prevent serious damage to fisheries or fish farms. These two bases for granting a seal licence (authorising the killing or taking of seals) were removed by the [Animals and Wildlife \(Protection, Penalties and Powers\) \(Scotland\) Act 2020](#) from February 2021.

The [driver behind this legislative change was a new provision in the US Marine Mammal Protection Act](#) expected from 2022, requiring that nations exporting commercial fish and fish products to the US are held to the same standards as US commercial fisheries, where the taking of marine mammals is prohibited. The change was therefore made in order to protect exports of farmed Atlantic salmon to the US.

### Use of acoustic deterrent devices by the Scottish aquaculture sector

The [Animals and Wildlife \(Protection, Penalties and Powers\) \(Scotland\) Act 2020](#) also introduced a legal requirement for Scottish Ministers to report to Parliament on the use of Acoustic Deterrent Devices (ADDs) by the Scottish aquaculture sector. This was in response to concerns about the impacts of the routine use of ADDs in finfish farms on marine mammals. ADDs are mainly used to deter seals from predating on farmed fish.

The [Scottish Government published a report in March 2021](#) setting out the following:

- There is no single, comprehensive source of information on the nature and extent of ADD deployment and use at finfish farms in Scotland.
- During 2020/21 the industry reported further changes to their use of ADDs which is an evolving and highly dynamic situation.
- The Scottish Government committed to "work with the sector and regulators to establish a more systematic process for gathering information on ADDs where they are used at Scottish finfish farms", aiming to allow for a greater understanding of the distribution of ADD noise sources, and therefore the potential for disturbance impacts

on marine mammals.

# Farmed animals

## Key policy, legislation, roles and responsibilities

Regulations governing the welfare of farmed animals cover the keeping, transport and slaughter of livestock. Farm animal welfare regulations form an important part of the regulations which apply to agriculture, and are key to the public's confidence in the food they buy and eat.

Key legislation includes:

- The [Animal Health and Welfare \(Scotland\) Act 2006](#), which provides for the welfare of all 'protected animals', that is a commonly domesticated animal, 'under the control of man' or not living in a wild state;
- The [Welfare of Farmed Animals \(Scotland\) Regulations 2010](#), which set out the duties of any person responsible for a farmed animal, including specific requirements for certain species, such as laying hens, cattle and pigs;
- The [Welfare of Animals \(Transport\) \(Scotland\) Regulations 2006](#);
- The [Welfare of Animals \(Slaughter or Killing\) Regulations 1995](#);
- The [Welfare of Animals at the Time of Killing \(Scotland\) Regulations 2012](#).

Prior to EU exit, farmed animal welfare standards were largely set at EU level. Following EU exit, animal welfare legislation that stemmed from the EU largely continues to apply as '[retained EU law](#)'.

As animal welfare is a devolved competence, policy and regulation is the responsibility of the Scottish Government and Scottish Parliament. The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 confers regulation-making powers to Scottish Ministers to amend or replace elements of retained EU law relating to agriculture in Scotland, such as for farm animal welfare.

For farming sectors that receive farm subsidies, farm animal welfare regulations are also one part of so-called 'cross-compliance' rules, which farmers and crofters must abide by to receive payments. Cross-compliance rules stem from the EU, but continue to apply in Scotland. The rules add an additional mechanism to ensure compliance with common standards; failure to follow legal requirements can not only result in legal liability, but also loss of support payments.<sup>10</sup>

The Animal Health and Welfare Division in the Scottish Government, headed by the Chief Veterinary Officer is responsible for animal health and welfare policy. The delivery of animal health and welfare services is largely the responsibility of the Animal & Plant Health Agency (APHA), an executive agency sponsored by the Scottish Government, Welsh Government and the Department for Environment, Food and Rural Affairs (Defra).

A 2020 review commissioned by the Scottish Government recommended developing a new Scottish Veterinary Service (SVS) which would take on responsibilities currently held by DEFRA's [Animal and Plant Health Agency \(APHA\)](#) as well as delivering a wider range of functions with greater relevance to the Scottish context. The remit of the current APHA

is broad - covering health of wild and domesticated plants and animals. A new SVS could take on responsibilities currently covered by APHA and, the 2020 review states: "additional areas for consideration could include, but not be limited to; meat hygiene inspection, animal feed controls, scanning surveillance, aquatic disease control, bee health as well as a greater clarity and responsibility for farmed animal health and welfare enforcement."

The 2021 SNP manifesto included a commitment to

“ create a new Scottish veterinary service to ensure that we have enough people with the right qualifications in veterinary services, animal health and food safety to meet all our needs across the public and private sector for land and marine based animal health issues. <sup>11</sup> ”

## Livestock

Following consultation, the Scottish Government produced the [Animal health and welfare in the livestock industry: Strategy 2016-2021, published in March 2016](#). The strategy sets out that

“ Maintaining and building on our existing high standards of animal health and welfare [...] will:”

- Enable Scottish producers to continue to command a premium in the market;”
- Contribute substantially to Scotland's ambition to be a Good Food Nation by further improving the quality and taste of its produce;”
- Contribute to a reduction in carbon emissions through increased biological efficiency; and”
- Allow individual producers to reduce the direct and indirect costs associated with disease and to help improve their long-term profitability. <sup>12</sup> ”

It sets out five priority themes (skills and knowledge, disease risk, welfare, regulatory and society impact) and 12 actions with next steps.

In addition, a number of specific issues were explored during Session 5. These are discussed in turn below.

### Live animal exports

The live export of animals is considered due to the potential stress caused to animals during transport. In general, live animals are exported between different countries because they can be bred in one location, but transported for fattening and slaughter in another location.

The export of animals for fattening and slaughter is allowed in the EU. Globally, the practice has come under increasing scrutiny due to accidents around the world which have caused severe breaches in animal welfare.

Following EU exit, UK nations have shown various commitments to ending live exports for fattening and slaughter.

The UK Government held a [call for evidence on controlling exports for slaughter and improving animal welfare during transport in 2018](#). At the same time, [a systematic review was commissioned by Defra and the devolved administrations to look at animal welfare during transport](#).

Following the call for evidence, the UK Farm Animal Welfare Committee (now the Animal Welfare Committee), which reports to Defra and the devolved administrations, was commissioned to produce an opinion on the welfare of animals during transport. [The FAWC Opinion on the Welfare of Animals during Transport report was published in April 2019](#).

In addition to a number of other detailed recommendations, FAWC recommended that:

“ animals are only transported if it is absolutely necessary and that the most welfare considerate route is chosen; which is a combination of journey quality, including they type of transport, duration and suitability. Therefore, animals should not be transported longer distances if suitable alternatives are available. Transporters intending to export animals to be slaughtered or further fattening in a different country should apply to APHA for consent to do so, indicating reasons why alternative arrangements have not been made. that there is a review of the availability of abattoirs related to the points of production and particularly mindful of end of life requirement. This will identify where abattoirs need to be sited in order to meet the needs of farmers and to minimise journey times and thereby meet the welfare needs of animals. further research into the feasibility of the economics, design and use of mobile slaughter facilities so as to reduce the need to transport animals over long distances particularly with regard to sea crossings. <sup>13</sup> ”

The [Scottish and Welsh Governments responded jointly to the recommendations](#), and both the UK and Scottish governments published consultations on the Committee's recommendations. The [Scottish Government consultation was published on 4 December 2020](#).

Prior to this, commitments were initially made by the Scottish Government to stop the export of unweaned male calves in September 2020, following a legal challenge from animal welfare organisation Compassion in World Farming. The [legal proceedings were subsequently dropped after the Scottish Government accepted that the trade of unweaned calves was being carried out in breach of EU regulations](#) on animal welfare during transport.

Commitments have since gone further; in their 2021 election manifesto, the SNP committed to “ban live exports of animals for fattening and slaughter and only allow live transport of livestock to and from islands and the mainland with stringent welfare standards in place”. <sup>11</sup>

On 8 June 2021, the UK Government published the [UK Animal Welfare \(Kept Animals\) Bill](#). Amongst other things, the Bill make provision to ban the export of live animals for slaughter or fattening outside the ‘British Islands’ (the UK, Channel Islands, and Isle of Man, but not the Republic of Ireland <sup>14</sup> ). These provisions apply in Scotland, and allow for the continued transport from, for example, Scottish islands to the mainland. A Legislative Consent Memorandum has been lodged in the Scottish Parliament. [More information on the Bill and legislative consent can be found earlier in the briefing](#).

## **Livestock worrying**

The term 'livestock worrying' refers to when a dog attacks or chases any form of livestock and causes it harm, either in the form of injury, abortion, or stress. Livestock worrying is an offence.

The [Dogs \(Protection of Livestock\) \(Amendment\) \(Scotland\) Bill](#) was introduced as a [Member's Bill](#) by Emma Harper MSP in May 2020. The aim of the Bill was to update and amend the Dogs (Protection of Livestock) Act 1953 to introduce higher penalties for livestock worrying offences, and provide additional enforcement powers.

Prior to the Bill being introduced, several campaigns had been initiated to prevent incidences of livestock worrying. The National Farmers Union of Scotland (NFUS) launched the '[Control Your Dog on Farmland](#)' campaign in February 2019, to encourage greater awareness and prevention of dog-related issues. Around the same time, the Scottish Partnership Against Rural Crime ran the campaign '[Your Dog - Your Responsibility](#)' campaign to "highlight the reality of livestock attacks." NatureScot, the public body responsible for the [Scottish Outdoor Access Code](#) also produces guidance on access to the outdoors with dogs. [Access rights apply to people walking dogs as long as their dogs are kept under proper control](#), and dog owners have a responsibility to prevent livestock worrying.

The [Dogs \(Protection of Livestock\) \(Scotland\) Act 2021](#) became law on 5 May 2021.

[Other dog-related legislation has been reviewed in recent years](#) and is explored in an earlier section of this briefing. During Committee consideration of the Dogs (Protection of Livestock) (Scotland) Bill, [several stakeholders raised that a more comprehensive review of dog control legislation should be undertaken](#).

## **CCTV in slaughterhouses**

Mandatory CCTV in all areas of approved slaughterhouses where live animals are present came into force on 1 July 2021 following the passage of the [Mandatory Use of Closed Circuit Television in Slaughterhouses \(Scotland\) Regulations 2020](#).

Prior to this CCTV in slaughterhouses was voluntary, but encouraged. Following a 2017-2018 Programme for Government commitment to consult on mandatory measures, a consultation was subsequently held in 2018. The majority of respondents were in favour of CCTV being mandatory.

## **Other commitments**

In addition to a general commitment to "modernise and update the Animal Welfare Act from 2006", the SNP made a 2021 manifesto commitment to "shifting to entirely free range, woodland or barn chicken and egg production."

The manifesto also committed to "seek to reflect so far as we can, new EU animal welfare labelling to promote food produced to higher than EU welfare standards".

# **Aquaculture**

The welfare of farmed fish came under increasing scrutiny in Session 5 as part of wider investigations into Scottish salmon farming.



The Rural Economy and Connectivity (REC) Committee conducted an inquiry into Scottish Salmon farming, [publishing a final report with conclusions and recommendations in 2018](#). The inquiry scrutinised salmon farming from a number of different angles, including the welfare of farmed fish.

The REC Committee's report outlines a range of fish health and welfare issues that contribute to high mortality rates of farmed salmon, including:

- Diseases that affect the gills; and
- Sea lice, parasitic lice that live on the skin of the fish. Sea lice can cause the skin of the fish to become damaged and make salmon more susceptible to other infections.

The Committee concluded that it felt the current level of mortality to be too high and was “of the view that no expansion should be permitted at sites which report high or significantly increased levels of mortalities, until these are addressed to the satisfaction of the appropriate regulatory bodies”.

[Marine Scotland's Fish Health Inspectorate is responsible for the health and welfare of farmed fish](#). Scottish Ministers have the power to appoint fish health inspectors under the fish health legislation.

Key legislation on farmed fish welfare includes:

- The [Aquatic Animal Health \(Scotland\) Regulations 2009](#);
- The [Fish Farming Businesses \(Record Keeping\) \(Scotland\) Order 2008](#);
- The [Aquaculture and Fisheries \(Scotland\) Act 2007](#), amended by the [Aquaculture and Fisheries \(Scotland\) Act 2013](#);
- [Trade in Animals and Related Products \(Scotland\) Regulations 2012](#);
- [The Sea Fisheries \(Shellfish\) Act 1967](#)
- The [Fish Farming Businesses \(Reporting\) \(Scotland\) Order 2020](#)

Aquaculture can also pose welfare issues in the wild if escaped fish come into contact with wild fish. Escaped farmed fish interacting with wild salmon is generally not desirable for a number of reasons, including the risk of spreading pests (like sea lice) or diseases, or inter-breeding between wild and farmed stock which is thought to be able to result in less resilient wild populations. As a result of these concerns, the Scottish Government set up a [Salmon Interactions Working Group](#), to make recommendations on managing interactions between wild and farmed fish.

However, an issue that was raised in the course of the REC Committee's inquiry was the lack of single responsible body when it comes to the health and welfare of wild fish populations.

The REC Committee stated:

“ The Committee notes concerns expressed in evidence that none of the existing regulatory bodies currently has responsibility for the impact of salmon farms on wild salmon stocks. The Committee believes that clarity must be provided by the Scottish Government as to how this apparent regulatory gap will be filled and which agency will assume responsibility for its management.”

The Fish Health Inspectorate has only very limited duties when it comes to wild fish. It investigates escaped farmed fish and “undertake[s] a passive surveillance programme and investigate all reported mortality incidents in wild fish and surveillance” as part of national surveillance for animal diseases.<sup>15</sup>

The Committee held a short follow-up inquiry in November 2020, where members expressed concern at the extent of progress towards reform.

Some changes had been made in relation to both the environmental and animal welfare impacts of salmon farming in the two years since the original RECC inquiry, including a reformed [finfish aquaculture regulatory framework](#), and [new regulations on mandatory weekly reports on sea lice numbers](#). However, [in its Session 5 Legacy Report the Committee stated](#) that it was

“ very disappointed by the apparent limited extent of progress in implementing [the Committee’s] recommendations”

and

“ On this basis, the Committee is of the view that there is still a great deal of work to be done to address the issues raised during its inquiry and suggests that its successor/s may wish to consider following up on these matters during Session 6 and undertaking continued scrutiny of the regulation, performance and sustainability of Scotland’s aquaculture sector.<sup>16</sup> ”

## **Fish health framework**

In response to concerns about fish health and welfare, the Scottish Government published a [10 Year Farmed Fish Health Framework](#) in May 2018. The [framework has been overseen by a steering group, which was given a renewed focus in October 2020](#). The three priority workstreams of the steering group are:

“

1. Mortality by cause analysis with the associated framework activities to:”
  - “Develop a consistent reporting methodology for collection of information on the causes of farmed fish mortality over recent years.”
  - “Provide survival data for marine rainbow trout and marine salmon and ensure that the Farmed Fish Health Framework activities remain appropriate.”
2. Climate Change and Ocean Acidification with the associated framework activities to:”
  - “Consider the creation of real time monitoring of plankton in, and alert of the occurrence of, potentially harmful phytoplankton species.”
  - “Determine how best to measure changing climatic conditions in Scotland particular to aquaculture leading to an annual mapping exercise. This should include an assessment of currently available environmental data from around fish farms, for example real-time temperature data.”
3. Treatments (including Medicines) with the associated framework activities to:”
  - “Encourage development of new medicines with the aim of increasing treatment flexibility and allowing the potential to explore treatment rotation in Scotland, within environmentally sustainable limits, appropriate use of veterinary medicines through ‘cascade’, and treatment residue containment and neutralisation. <sup>17</sup>”

# Zoos, circuses, performing animals and dangerous wild animals

## Zoos

Any zoo in Scotland displaying wild animals that are not normally domesticated in Great Britain is subject to licensing and inspection under the [Zoo Licensing Act 1981](#) and [the Zoo Licensing Act as amended by the 2003 \(Scotland\) Regulations](#).

A zoo is defined under the Zoo Licensing Act (ZLA) as being 'an establishment where wild animals are kept for exhibition ... to which members of the public have access, with or without charge for admission, seven or more days in any period of twelve consecutive months'.

Licensed zoos can range from traditional urban zoos and safari parks to small specialist collections such as butterfly houses and aquaria. The ZLA does not extend to circuses, or to pet shops, both of which are covered by other legislation.

Responsibility for Scottish zoos is devolved to the Scottish Government and its animal welfare team has responsibility for the overarching policy on zoo animal welfare. Zoo licensing is undertaken by local authorities, who are supported in arranging inspections by the Animal & Plant Health Agency (APHA). More information about zoo licensing and standards [can be found on the Scottish Government website](#).

Under [the Zoo Licensing Act 1981 Amendment \(Scotland\) Regulations 2003](#), zoo operators are obliged to implement specified conservation and education measures. The [UK Animal Welfare \(Kept Animals\) Bill](#) introduced in the UK Parliament on 8 June 2021 includes proposed reforms to these standards which are expected to be taken forward at UK-level with Scottish Ministers' consent <sup>18</sup> ([for more information see the above section](#)).

## Circuses

The use of wild animals in travelling circuses is banned in Scotland under [the Wild Animals in Travelling Circuses \(Scotland\) Act 2018](#). The Act is supplemented by [Scottish Government guidance](#).

## Performing animals

Anyone exhibiting or training a performing animal for public displays (except for military, police, agricultural or sporting purposes) is required to register with their local authority under the [Performing Animals \(Regulation\) Act 1925](#).

The [Scottish Government states that it is](#) "considering how to update this legislation, in response to the growing number of mobile animal 'experiences', including animals being taken into schools and various other types of mobile zoo or animal encounter which can raise welfare concerns about the way these animals are trained, handled, transported and accommodated".

## Dangerous wild animals

The keeping of dangerous wild animals is also regulated by [the Dangerous Wild Animals](#)

[Act 1976](#). The Act applies in England, Wales and Scotland, but responsibility for dangerous wild animals is devolved. It aims to protect the public and to ensure that the animals are properly cared for. The Act does not apply to animals kept in zoos, circuses, pet shops or designated establishments within the meaning of the [Animals \(Scientific Procedures\) Act 1986](#) - these are covered by separate legislation including that set out above.

Local authorities are responsible for administering and enforcing the Act, and anyone wishing to keep such animals must obtain a licence from their local authority prior to taking ownership of their animal. [Guidance for local authorities is provided by the Scottish Government](#).

# Animal health

Preventing the spread of animal diseases is a devolved matter, though there is significant coordination and collaboration across the four UK nations.

The main piece of legislation is the [Animal Health Act 1981](#) ('the 1981 Act'). Among other things, the 1981 Act provides Ministers with powers to make orders to prevent the spread of disease, regulates movement and gathering of animals, and sets out requirements to produce contingency plans for disease control. The 1981 Act (or Orders made under it) also sets out '[notifiable diseases](#)' - that is, diseases which must be reported to the Animal and Plant Health Agency (APHA), the UK-wide agency responsible for managing animal disease. Examples of notifiable diseases are avian influenza ('bird flu'), foot and mouth disease, and bovine tuberculosis. Failure to report a notifiable disease is an offence.

The focus of disease control in animals is prevention. The [Scottish and UK Governments produce contingency plans for handling disease outbreaks](#).

The APHA is responsible for monitoring animal diseases for the whole of the UK. The APHA, along with the [Scottish Rural College \(SRUC\) Veterinary Services](#) and [Moredun Research Institute](#) are the three surveillance providers funded by the Scottish Government.

More [information on animal health can be found on the Scottish Government's website](#).

## Zoonoses

Zoonoses are diseases that can naturally spread from non-human animals to humans. Examples of zoonoses include rabies, lyme disease, and avian influenza.

Whilst the spread of Covid-19 is driven by human to human transmission, [it is thought to have had a zoonotic source, that is, to have originally spread from animals to humans](#). More [information on zoonoses is available from the World Health Organisation](#).

Since February 2021, Covid-19 (SARS-CoV-2) is a reportable disease as a result of amendments made to the Zoonoses Order 1989 by the [Zoonoses Amendment \(Coronavirus\) \(Scotland\) Order 2021](#). This means that there is a legal requirement to report the presence of SARS-CoV-2 in all mammals (except humans) to the APHA. More information on [Covid-19 and animals](#) can be found in an earlier section.



# Animals in scientific research

The regulation of the use of animals in scientific research is reserved to the UK Government under Schedule 5 of the [Scotland Act 1998](#). The main regulations covering this topic are the [Animals \(Scientific Procedures\) Act 1986](#), as amended by the [Animals \(Scientific Procedures\) Act 1986 Amendment Regulations 2012](#). The regulations stem from European Directive 2010/63/EU.

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