



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 25 September 2023  
SP Paper 438  
7th Report, 2023 (Session 6)

## **Rural Affairs and Islands Committee**

# **Subordinate legislation considered by the Rural Affairs and Islands Committee on 13 September 2023**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish Parliament website at:  
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

<b>Introduction</b>	<b>1</b>
<b>The draft Deer (Firearms etc.) (Scotland) Amendment Order 2023</b>	<b>2</b>
Committee consideration of the instrument	2
<b>The Deer (Close Seasons) (Scotland) Amendment Order 2023</b>	<b>5</b>
Committee consideration of the instrument and motion to annul	5

# Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



[rural.committee@parliament.scot](mailto:rural.committee@parliament.scot)

# Committee Membership



**Convener**  
**Finlay Carson**  
Scottish Conservative  
and Unionist Party



**Deputy Convener**  
**Beatrice Wishart**  
Scottish Liberal  
Democrats



**Karen Adam**  
Scottish National Party



**Alasdair Allan**  
Scottish National Party



**Ariane Burgess**  
Scottish Green Party



**Jim Fairlie**  
Scottish National Party



**Rhoda Grant**  
Scottish Labour



**Rachael Hamilton**  
Scottish Conservative  
and Unionist Party



**Kate Forbes**  
Scottish National Party

# Introduction

1. At its [meeting on 13 September 2023](#), the Rural Affairs and Islands Committee considered two instruments—
  - [The draft Deer \(Firearms etc.\) \(Scotland\) Amendment Order 2023](#); and
  - [The Deer \(Close Seasons\) \(Scotland\) Amendment Order 2023](#).

# The draft Deer (Firearms etc.) (Scotland) Amendment Order 2023

2. The draft [Deer \(Firearms etc.\) \(Scotland\) Amendment Order 2023](#) was laid before the Scottish Parliament on 21 June 2023 and is subject to the affirmative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.
3. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [27 June 2023](#) and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
4. The policy note states that the purpose of the instrument is to amend the Deer (Firearms etc.) (Scotland) Order 1985 to permit the use of night sights for the taking or killing of deer and to amend the minimum ammunition requirements to make non-lead alternatives more accessible for use when taking or killing deer.
5. The stated objective of the instrument is to “increase the tools available to land managers when undertaking deer management by supporting the use of a wider range of firearms which may be more readily available to those who are managing land for a range of purposes and support culling efforts at all times of the day and night”.
6. The policy note states this instrument will implement recommendations made by the independent Deer Working Group to modernise deer management in Scotland. The 2019 report considered all aspects of deer management in Scotland before making 99 recommendations for change.

## Committee consideration of the instrument

7. At its [meeting on 13 September 2023](#), the Rural Affairs and Islands Committee took evidence on the instrument from the Minister for Green Skills, Circular Economy and Biodiversity, Lorna Slater MSP, and Scottish Government officials.
8. The Minister made some opening remarks, setting out the purpose and objective of the instrument. In particular, the Minister highlighted the destructive impact that high densities of wild deer can have on the natural environment and the need for responsible deer management.
9. The Committee considered the following issues in relation to the instrument.
10. Under section 21(2) of the Deer (Scotland) Act 1996, the Scottish Ministers are required to consult with those likely to be interested or affected by the Order. The policy note states that, while no public consultation was undertaken on the instrument, “stakeholders who have an interest in the issue or are likely to be affected have been consulted”. The Committee asked why the decision was taken to not undertake a full public consultation. The Minister explained the Scottish Government had met the legal requirements to consult on the proposals and referred to the deer working group's report. Scottish Government officials provided further details on the consultation and those stakeholder organisations who had

engaged with the process.

11. The Committee asked what the Scottish Government was doing to allay any animal welfare concerns associated with the culling of deer at night. The Minister highlighted NatureScot's 2022 review of the welfare issues relating to the use of intensifying night sights for the culling of deer at night. The review found no evidence that culling deer at night using thermal imaging technology increased the risk of deer being wounded and found that all the deer were humanely dispatched.
12. The Committee asked about wider public safety concerns associated with using firearms at night. The Minister stated that 17 per cent of deer are already shot at night. She went on to explain that night licenses for shooting can only be issued under NatureScot's authorisation and that these come with clear conditions and a code of practice. Scottish Government officials also confirmed that people who shoot at night are required to be on the fit and competent register that NatureScot operates.
13. The Committee raised associated concerns regarding the level of expertise required to operate a firearm using certain sights at night and questioned whether additional training or an update of the relevant guidance issued by NatureScot is required. The Minister confirmed that NatureScot will update the guidance and stressed that authorisations require the people carrying out the shooting are properly qualified and are following the best practice guidance.
14. The Committee asked about the potential for operators to be penalised, should they fail to meet the minimum requirements to shoot at night and the possibility this might prohibit them from undertaking other forms of culling because the authorisation provided by NatureScot would cover both activities. In response, the Scottish Government noted that, when NatureScot reviewed the position, it did not recommend that any further training be required in relation to the use of night sights. Lamping and the use of night sights both require people to have experience and to be on the fit and competent register.
15. Regarding an operator's ability to competently cull deer at night, the Committee asked whether the legislation or guidance stipulates what specification of sight is required. The Minister explained that the Scottish Government has not specified the types of scopes that can be used because technology is always evolving.
16. The Committee and Minister also discussed the potential benefits for the venison industry. In particular, the Committee asked whether an increase in the culling of deer might lead to carcasses going to waste should there be insufficient demand from consumers. Scottish Government officials contended that, at present, the proportion of carcasses not being used was relatively low and that they were working with venison wholesalers on the impact an increase in culling might have on the Scottish venison market.
17. Following the evidence session, the Minister moved motion [S6M-09640](#)—  
  
"That the Rural Affairs and Islands Committee recommends that the Deer (Firearms etc.) (Scotland) Amendment Order 2023 [draft] be approved."
18. The motion was agreed to by division: For 6, Against 2, Abstentions 0.



The Rural Affairs and Islands Committee recommends that the Deer (Firearms etc.) (Scotland) Amendment Order 2023 be approved.

# The Deer (Close Seasons) (Scotland) Amendment Order 2023

19. The Deer (Close Seasons) (Scotland) Amendment Order 2023 was laid before the Scottish Parliament on 21 June 2023 and is subject to the negative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.
20. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [27 June 2023](#) and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
21. The policy note states that the purpose of this instrument is to amend the Deer (Close Seasons) (Scotland) Order 2011 to remove the close season for male deer. The close season for female deer is unchanged.
22. The stated policy objective is to reduce the impact of deer on the environment by maximising how, and when, deer can be taken or killed in Scotland while ensuring animal welfare standards are upheld.
23. The policy note states this instrument will also implement recommendations made by the independent Deer Working Group to modernise deer management in Scotland.

## Committee consideration of the instrument and motion to annul

24. At its [meeting on 13 September 2023](#), the Rural Affairs and Islands Committee took evidence on the instrument from the Minister for Green Skills, Circular Economy and Biodiversity, Lorna Slater MSP, and Scottish Government officials.
25. The Minister made some opening remarks, setting out the need to control deer numbers which, for red deer, have risen from 155,000 in 1959 (when the Deer (Scotland) Act 1959 was passed and the close season was implemented) to 500,000 in 1990 and then to around 1 million in 2020. The Minister highlighted the environmental damage caused by grazing deer, which would “not allow us to reach our biodiversity, nature restoration or carbon sequestration goals” and commercial damage to forestry and crops.
26. The Minister explained that 48% of male deer culled in Scotland are currently culled out of season and that, to do this, an authorisation from NatureScot is required. She went on to explain that removing the close season for male deer would ease the administrative burden for deer/land managers by removing “the need for hundreds of out-of-season authorisations to be issued each year to control male deer, saving land managers time and effort and reducing costs to the public purse”.
27. The Minister told the Committee that there would be no animal welfare implications for this change. She said that the close season for male deer had been “specifically negotiated by sporting interests” in 1959 to allow deer to grow larger antlers for the sporting season. The Minister confirmed that both the Scottish Animal Welfare

Commission (SAWC) and “major animal welfare organisations” were supportive of the legislative change.

28. Edward Mountain MSP, who had lodged motion [S6M-10137](#) to annul the instrument, set out his concerns with the proposal.
29. In relation to animal welfare concerns, he queried whether it was “reasonable, fair and right for proper deer management” to—
  - ” allow a target to be painted on a male deer’s back from the very day that it is born to the very day that it dies. It can be shot literally as it appears out of its mother until the day it dies.
30. Edward Mountain went on to argue that it is “fundamentally untrue” that there are no animal welfare reasons for the close season for male deer and stated its purpose is to allow male deer to recover after they have completed the rut. He went on question whether it was right to harry and shoot a male deer when it “is at its weakest, most challenged point, before it goes into the most challenging season of the year—winter in Scotland”. To illustrate the challenges of winter for deer, Edward Mountain gave an example of when he had found 60 stags which had died of exhaustion, following a very cold and wet spring.
31. The Minister reiterated her earlier point regarding the percentage of deer already culled out of season and stated—
  - ” We know that there is demand from some land managers to be able to do that activity out of season, and the legislation that we are proposing merely removes the administrative burden for those who wish to manage their deer in that way. Of course, anyone who does not wish to manage their deer in that way and who wishes to leave the deer after the rut may do so. What we are proposing is not an obligation.
32. The Minister added that she had no evidence to suggest that deer/land managers would be more minded to cull male deer at a younger age and from the moment they were born.
33. The Minister emphasised the importance of deer/land managers’ skills, expertise and experience in considering the welfare implications in individual situations. She told the Committee that “they have deer welfare at heart and if they feel that deer are being distressed or that there are welfare concerns, they should stop that action. I am sure that they would do so, because they have those concerns.”
34. Edward Mountain went on to query the premise that the authorisation to cull male deer in the close season creates an administrative burden for deer/land managers. He told the Committee there is a general authorisation issued all year round by NatureScot for the control of deer on improved agricultural land and enclosed woodland which does not need to be applied for. A Scottish Government official told the Committee—
  - ” A general authorisation is needed for the out-of-season shooting of male deer, so, as long as people meet the conditions, they can access the authorisation themselves. Such authorisations are not routinely rejected.
35. Officials indicated the instrument would also reduce the administrative processes

- for NatureScot which, although does not decline authorisation forms, processes them.
36. The Committee heard that Forestry and Land Scotland (FLS) undertakes between a third to a quarter of the culling of male deer out of season. It was told in 2019-20, 41,331 male deer were killed out of season; FLS culled about 11,000 male deer out of season in 2022-23.
37. The Committee went on to discuss a number of issues relating to the instrument.
38. The Committee asked the Minister about alternative forms of deer management, given the significant increase in red deer numbers since 1959, and what NatureScot is doing more generally to encourage deer/land managers to manage deer numbers.
39. In response, the Minister highlighted the role of deer management groups – largely voluntary groups of deer/land managers who work together to control deer who graze across their land. The Minister reiterated that the instrument was “just one small piece of the puzzle” and highlighted the other recommendations made by the deer working group which the Scottish Government has committed to implementing.
40. The Committee discussed the impact the close season might have on the domestic venison market and the quality of the meat.
41. The Minister argued that only a very small number of carcasses could not be used for sale and that, when she had engaged with the venison industry, it did not have any particular concerns about the change to the close season. The Minister also stated that—
- ” One of the challenges with the venison market is that it is so seasonal. Removing the close season will give land managers a bit more flexibility to be able to level out the season and make the venison market steadier and easier to handle. It will also be easier on the infrastructure that is required, such as the cool rooms and other facilities. The venison industry has not had any particular issues with the proposal and it should open up such options.
42. Members discussed a concern that “the measure is just about convenience [for government agencies] and that very little thought has been given to, first, the food chain and, secondly, animal welfare”. In response, the Minister emphasised the need to control deer numbers, the deer working group’s recommendations and the view expressed by the SAWC and animal welfare organisations that there were no animal welfare implications of the change.
43. The Committee discussed the human safety concerns relating to deer-vehicle collisions (DVCs) and tick-borne diseases, such as Lyme disease. The Minister stated there are estimated to be between 8,000 and 14,000 DVCs a year in Scotland. Members asked whether there was a risk of an increase in DVCs if pregnant hinds were caused to bolt if male deer were shot proximate to them.
44. The Committee went on to discuss the different approaches taken to species management in Scotland and whether this instrument contrasted with the general increase in administration and authorisation for culling wild animals. The example was given of mountain hares which are protected on animal welfare grounds whilst deer are not, despite both causing damage to the environment through grazing.

45. Whilst accepting that both species cause damage, the Minister stated that—
- ” The big difference is the population numbers. As we have discussed, the numbers of deer in Scotland are enormous—they have doubled and doubled again since the 1950s—whereas the mountain hares have unfavourable conservation status and there are simply not enough of them to require that kind of management.
46. The Committee discussed the importance of the Scottish Government engaging constructively with land managers and gamekeepers in order to draw on their experience and expertise. The Minister set out some of the engagement activities she had undertaken and noted that—
- ” Members of representative organisations, including both the British Association for Shooting and Conservation and the Scottish Gamekeepers Association, have been engaged at every step of the process from 2020, when the [deer working group] recommendations were published, through 2021, when the Scottish Government submitted its response.
47. The Committee asked about the risk that some deer/land managers might prioritise environmental concerns over and above animal welfare and take advantage of the removal of the close season to over-cull deer in order protect the environment. The Committee, therefore, asked how the Scottish Government would monitor and review the impacts of the legislation to ensure adequate animal welfare standards.
48. The Minister reiterated that “animal welfare groups have been consulted on the SSI” and that “no welfare issues were raised with respect to the close season for male deer—none at all”.
49. The Committee sought reassurances from the Minister that the Scottish Government would monitor the impact of the removal of the close. The Minister explained that NatureScot would collect data on the numbers of deer culled.
50. Following the evidence session, Edward Mountain MSP moved motion [S6M-10137](#)—
- "That the Rural Affairs and Islands Committee recommends that the Deer (Close Seasons) (Scotland) Amendment Order 2023 (SSI 2023/184) be annulled."
51. After debate, the motion was agreed to by division: For 4, Against 4, Abstentions 0; motion agreed to on casting vote.

The Rural Affairs and Islands Committee recommends that the Deer (Close Seasons) (Scotland) Amendment Order 2023 (SSI 2023/184) be annulled.

