Red Deer and the natural environment â?? what differences will the changes to the legislation make?

Description



Red Deer on the Cairngorms National Park boundary within the Caenlochan Section 7 (voluntary control) area Any edible plant gets eaten before it has a chance to reproduce, leaving coarse grasses and heather which is then burned (note patch top left). Photo 18th April 2023.

The damage caused by Scotlandâ??s exceedingly high numbers of red deer and muirburn are the two main issues that need to be tackled if we are to tackle the nature and climate emergencies in the uplands. This post takes a look at the three changes in the law the Scottish Government announced yesterday (see here) which are intended to â??make it easier to reduce unsustainable deer numbersâ?•.

Background â?? crisis what crisis?

Following numerous previous inquiries, the Scottish Government set up the Deer Working Group in 2017 to consider issues around the management of deer in Scotland. It produced its final report, in some ways the most comprehensive yet, in February 2020 (see here).

Dave Morris produced an analysis of the report on parkswatch within a week (see here) and identified areas where urgent action was possible, including the use of compulsory Section 8 measures to control the deer at Caenlochan (pictured above). The Scottish Government by contrast took over a year to

respond before in March 2021 (see here) they accepted most of the Deer Working Groupâ??s ninety-nine recommendations.

Another fifteen months on in July 2022, the new minister for biodiversity, Lorna Slater expressed her determination to implement the recommendations of the Deer Working Group â??as a priorityâ?• in an opinion piece in the Herald in July 2022 (see here). It has taken eleven months since then for the Scottish Government to produce two amendment orders to the law, comprising a few hundred words in total. As Dave Morris argued, such tweaks to the law could have been implemented immediately. Instead the changes to the stag stalking season in the Deer (Close Seasons) (Scotland) Amendment Order 2023 will come into effect on 21st October this year, three and a half years after they were recommended by the Deer Working Group. (It is not yet clear when the other amendment order, about use of firearms to control deer, will come into effect).

The Scottish Governmentâ??s announcement and the changes to the law

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The Scottish Governmentâ??s news release, was a tad misleading. The â??disinformationâ?• was reprinted more or less word for word by various parts of the mainstream media.

The release started by claiming â??Land managers will be given more powers to help control Scotlandâ??s rapidly growing deer population after updated rules were introduced to Parliament this weekâ?•. The truth is that the existing legislation, designed to protect sporting interests, has restricted the power of most land managers to shoot deer and thus control their numbers. The amendment orders donâ??t give land managers any new powers, they simply lift a few of the current restrictions that make it very difficult for farmers, foresters and others to shoot deer.

â??The refreshed regulations will allow authorised land managers to:

- *cull male deer across a longer period of the year*
- *use specialist scopes known as â??night sightsâ?? to cull deer at night*
- *use ammunition which is less damaging to venison products*

I had to read the regulations to understand the changes. They show that the closed season for shooting the males of all five species of deer found in Scotland is to be abolished completely, as recommended by the Deer Working Group, and not just for â??a longer period of the yearâ?•. So why was the Scottish Government so reluctant to state this?

And in respect to â??less damagingâ?• ammunition, the effect of the regulations is to reduce the minimum weight from 6.48 grams to 5.3 grams. This will make it possible to use non-lead bullets in the smaller rifles used for sporting purposes. NatureScot and Forestry and Land Scotland have, to their credit, developed a supply chain to provide non-lead (copper) bullets for the heavier rifles they use to cull deer (it is safe to eat their venison). But the minimum weight restriction on ammunition has prevented a non-lead alternative being developed for smaller guns.

These changes reflect the Scottish Governmentâ??s response to the Deer Working Group report but NOT what it recommended:

8	The Deer (Close Seasons) (Scotland) Order 2011 should be replaced with a new Order in which the close season for females of each species is set to start on a date in the period 1st to 15th April (inclusive) and end on a date in the period 31st August to 15th September (inclusive), and in which no close seasons are set for males of each species.	**The Scottish Government accepts the Deer Working Group's recommendation to remove the close season for male deer and to keep the close season for female deer under review.**	The Scottish Government agrees that the close season for female deer is of vital welfare importance and that this should apply to all land, both unenclosed and enclosed. The Scottish Government also consider that a general close season, and a more restricted close season (that is a period in which female deer cannot be killed unless there is an exceptional circumstance) has significant welfare value. We will continue to keep the current dates under review and we will take further advice before considering any changes to close season in the future.	The Scottish Government will bring forward proposals to modernise the Deer (Scotland) Act in the next parliamentary term, which will include public consultation if further required.

The Report was very clear that the current open season for shooting hinds â?? 21st October to 15th February for red deer hinds â?? was too short to allow numbers to be effectively controlled. The Scottish Government effectively rejected this on the grounds that giving hinds a longer break from being shot (outside late pregnancy and when they had young) had â??significant welfare valueâ?•. Why hinds, but not stags, merited this treatment was not explained.

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Hinds, totally unconcerned by our presence, grazing at the head of Loch Nevis by Sourlies bothy Ma
2023

Nor was any mention made of the welfare of all the other animals, some of whose very survival is at stake, because of the way deer have destroyed their habitat.



Deer prints on the beach near Sourlies showing the impact of trampling and grazing. The surviving v is mainly thrift which appears from my observations less palatable to red deer.

The change in the law on ammunition also goes less far than the Deer Working Group which recommended lead should be banned after a transition period:

Part Two – Public Safety and Deer Welfare				
4	The Scottish Government should make a clear commitment to end the use of lead bullets to shoot deer in Scotland, carry out the necessary research and promotion to enable that change to be made after a transition period and, as a part of that, amend The Deer (Firearms, etc.) (Scotland) Order 1985 so that the specifications in paragraph 3(a)	**The Scottish Government accepts this recommendation in principle.**	Both NatureScot and Forestry and Land Scotland have committed to ending the use of lead ammunition to shoot deer on Scotland's national forests and land over the next five years and non-lead ammunition is used in approximately 95% of circumstances. There is wide recognition of the need to move away from using lead ammunition, not only to shoot deer, across the shooting	NatureScot will continue to promote non-lead alternatives and work with stakeholders to phase out lead ammunition to shoot deer across Scotland. The Scottish Government will give further consideration to whether a statutory ban is appropriate.

While the Scottish Government stated it accepted this recommendation in principle, all the change in the law will do is make it possible for a market to develop in lead free ammunition for smaller guns. Whether it does so will depend on whether sporting estates want to change or not. In itself the change to the law will do little to â??make more venison available to both foreign and domestic marketsâ?•. The venison eating public deserve to know whether what they are eating is completely lead free or not but years after lead was banned for other purposes it is allowed to continue in the sporting world. Nor will the change prevent lead being spread across the wider environment, wwhich was a major concern of the Deer Working Group. Lead like plastic needs to be kept out of the countryside.

What difference will these changes to the law make to red deer numbers?

The limited open season for shooting red deer stags in Scotland (1st July to 21st October) â?? in England the season runs from 1st August to 30th April! â?? has formed a major obstacle to those wanting to reduce deer numbers in Scotland, partly because the period was so restricted but also because it was the time stags are hardest to shoot, having taken to the hills. Being able to shoot stags when they are more likely to be on the lower ground and without having to apply for a special license will be of real help to some managers.

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Unfortunately, without also changing the season to shoot hinds, the direct benefits are likely to be limited. As long as red deer hind numbers remain high, as is the case on most stalking estates which treat them as having little â??sporting valueâ?•, the population of stags will simply be replenished each year. There is limited logic in making it possible to shoot stags year round if hinds can still only be shot in the most challenging part of the winter.

The silver lining here, however, is the legalisation of â??night sightsâ?• should make it easier to cull significantly more hinds over the winter when daylight hours are at their shortest and when the deer tend to descend to the lower and more accessible ground at the end of the day. This should really help conservation minded owners, foresters etc.

Indirectly, however, the abolition of the stag closed season could have a significant impact on the ethos of stalking estates and the way they are managed, not least because their capital value has been determined in part by the number of stags on the property. While some landowners may continue to want to stalk red deer only when they are in their prime and hardest to shoot, that ethos has been slowly eroding, as the proliferation of ATVs and bulldozed tracks shows. Some of the more commercially oriented estates or conservation owners such as the NTS at Mar Lodge, could start offering stag stalking all year round. That could be good for jobs and offers the possibility that some of the estate lodges which are currently only opened up for a few weeks a year are used for extended periods.

The extension to the stag stalking season also potentially risks causing some problems for outdoor recreation and the exercise of access rights. Traditionally, hill goers have exercised some restraint during the stag stalking season and accepted, for example, advice to keep to paths and ridges: but what now happens if some estates try to apply those â??restrictionsâ?• year round?

There is also the complex question of how traditional stalking estates will react now that it is much easier for other landowners to start shooting more stags?

At present the limited open seasons causes specific challenges for conservation owners, like Wildland Ltd or the National Trust for Scotland, and farmers and foresters who are trying to reduce deer numbers. Where such owners have upped shooting activity in the stalking season, some deer move onto neighbouring land only to return when it is safer to do so. If for this or any other reason the owner then applies for a license to shoot red deer out of season to prevent damage, it then has to face the likelihood it will be publicly attacked by the Scottish Gamekeepers Association. This happened to the John Muir Trust in Assynt in January (see here) and more recently to NTS in Glen Coe (see here).

The Scottish Gamekeepers Association has responded to the changes with a statement (see here) from Alex Hogg, MBE, who claimed that â??doing away with male deer seasons downgrades animal welfare in Scotland and may actually lead to numbers and forest damage increasingâ?•. This from an organisation that treats large numbers of animals as â??verminâ?•. Now the tables have partly turned, it will be interesting to see how the actual owners of stalking estates respond when â??their deerâ?• are culled on neighbouring land. Could some, for example, start to use fencing to keep deer in rather than out?

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The wider implications of the changes to the law

Had the Scottish Government amended the law on closed season for hinds, as the Deer Working Group recommended, at the same time as abolishing the closed season for stags and legalising the use of night sights, that could have had a major impact on the deer population in Scotland and had a number of beneficial consequences.

These changes to the law, however, while welcome and not before time, are likely to have a limited impact on land managers ability to reduce and control the number of red deer in Scotland. They will not address the â??devastating impact on our land due to trampling and overgrazingâ?• which Lorna Slater stated she wanted to see in the news release. Nor do they address the issue that â??An occupier should be able to protect their interests in an unenclosed woodland on land they occupy, not just in a woodland on land that is considered to be enclosed by a stock proof fenceâ?• as referred to in the Deer Working Group report.

This is a lost opportunity and not just in terms of addressing the direct environmental damage caused by deer in Scotland, with all the implications that has for tackling the nature and climate emergencies. If foresters were able to control deer effectively, for example, there would be no need for Scotland to spend a small fortune each year on expensive and ineffective deer fencing: natural regeneration could then replace planting as the main method by which woodland expanded, saving yet more public money. If the owners of large estates could shoot deer for most of the year, the justification for many of the hill roads which now mar much of Scotlandâ??s landscape would disappear.

The challenge for Lorna Slater now is not just to stop referring to red deer as Scotlandâ??s â??most iconic speciesâ?•, which plays into the hand of stalking estates, but to find a way to implement the commitment made by the Scottish Government in 2021 and review the closed season for hinds **sooner**

rather than later.

Being the Minister who is also responsible for NatureScot and National Parks provides a number of opportunities to do so. Ms Slater could, for example, ask NatureScot to consider issuing licenses to cull hinds across both National Parks, as per the periods recommended by the Deer Working Group. The grounds for this would be that the high numbers of hinds are causing significant environmental damage, contrary to the statutory purpose of our National Parks. If the impact of such a measure was properly monitored, it could then be used to justify a further review of the Deer (Closed Seasons) Order. After sixty years of procrastination on the deer issue, it is time for much more urgent action.

Category

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Tags

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4. hunting
5. landed estates
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