

## How not to manage deer in Scotland for climate and nature

### Description



View out over the middle section of the Tarentaise from the Vanoise Express which links the ski resorts of La Plagne and Les Arcs March 2024. Two weeks in the Alps and about the only fences I saw were around industrial sites.

Question: how does France (along with many other European countries) manage to have so much more woodland than Scotland and • forestry without fencing and planting?

Answer: they control grazing by large herbivores, whether livestock or deer, using completely different legal mechanisms than exist in Scotland

The fundamental failing with the legislative proposals in the Scottish Government's consultation on "Managing deer for climate and nature", which closed on Friday, is they are limited to proposing more of the same sort of tweaks to the system that has failed to control deer numbers for over 50 years. Professor Douglas MacMillan described some of the major flaws in those proposals on Parkswatch last week ([see here](#)). My own detailed response to the consultation built on those criticisms and I reprint it below in the hope it might help to prompt debate and a radical re-think.

There is pressing need for those who want radical deer reform to become organised and set up a campaign similar to REVIVE which was designed to promote grouse more reform. Unfortunately the response to the consultation from organisations in Scottish Environment Link ([see here](#)), which has

been lobbying for deer reform for years, while containing some good points (deer fencing should be phased out) accepted the main flawed premises in the Scottish Government proposals; namely that 10 deer per square kilometre on open hill ground is acceptable and the new compulsory powers to restore nature should only apply to specific areas, rather than the whole of Scotland (how Scotland could possibly phase out deer fencing with deer densities of 10 per square kilometre was not explained).

It appears the voluntary organisations involved in the LINK response (RSPB Scotland, Woodland Trust Scotland, Trees for Life, John Muir Trust, National Trust for Scotland, Nature Foundation, Plantlife Scotland and Scottish Wildlife Trust), many of whom own land, may have become primarily concerned with protecting their own interests rather than the wider public interest. Deer Management Nature Restoration Orders, if effective, would make it much easier to manage land in conservation ownership but do nothing for everyone else. It also appears they lack the courage to challenge sporting interests more generally, just as happened with grouse moor reform where the animal welfare organisations had far more success in achieving their objectives than the conservation organisations.

Whatever the explanation, the LINK organisations have not stood up for nature and climate as strongly as they should have done and it is now up to their members to make their views known and get them to take a more radical approach. In my view the decision by the Scottish Gamekeepers Association to boycott the whole consultation ([see here](#)) presents a major opportunity in this respect. It means the Scottish Government and MSPs will no longer have to waste time listening to gamekeepers views. Instead, Lorna Slater as Minister responsible, could be listening to how deer management is undertaken on the continent and working out how those lessons could be applied in Scotland.

## **Managing deer for climate and nature: response to consultation from Nick Kempe**

The Report of the Deer Working Group, published in December 2021, was extremely thorough, provided an important analysis of how deer numbers in Scotland had increased and why various iterations of legislation intended to control deer numbers had failed and made many useful recommendations which were then accepted by the Scottish Government in their response in March 2021. The report, however, failed to consider how deer were managed abroad and whether a different approach could be applied in Scotland. This was in large part due to the early death of Simon Pepper, the working group chair ([see here](#)). This meant that the report did not consider alternative ways of managing deer – including radical reform of the laws on hunting – and that its recommendations were effectively limited to tinkering with the current system.

The second major failure of the report is that it basically accepted NatureScot's working assumptions about deer densities compatible with the protection of nature – i.e. 10 per square km – when evidence from places like Glen Feshie and Mar Lodge has proved that natural regeneration only takes off when deer are reduced to two per square kilometre. The clear implication is that 10 deer per square km is still likely to be very damaging to the natural environment. While the Scottish Government in their response to the Deer Working Group indicated that target density should be kept under review by NatureScot, so long as it is endorsed by the Scottish Ministers (it is enshrined in the

current Biodiversity ([see here](#)) it is unlikely to change.

## The proposal to create Deer Management Nature Restoration Orders (DMNROs)

It is, to the Scottish Government's credit, that it accepts that Scotland is one of the most nature depleted countries in the world, that with the climate and nature emergencies the need for a more radical approach to nature restoration has been recognised (i.e that the report of the DWG is now out of date) and it is acknowledged that the creation of DMNROs is intended to do this. More specifically, while not explicitly stated, the Scottish Government appears to realise that it cannot attain its 30% target (30% of land in Scotland managed for nature by 2030) with high deer numbers. Hence it appears to the proposals for DMNROs.

The unanswered question, however, is why we should limit control of deer to limited areas for nature restoration and not more generally as happens on the continent? Doing so would have significant benefits not just for nature (high deer numbers impact on the ecological health of peat bogs and woodland) but for commercial forestry (enabling Scottish forestry to come in line in the continent where there is very little need to plant trees and deer fencing is almost unknown), farming (damage to crops), road traffic accidents etc. The issue with the DMNRO proposal therefore is not that more powers are needed but that any new powers need to be applied much more widely.

The criteria for DMNROs as currently proposed contain a number of serious weaknesses:

- The consultation states that criteria to determine where DMNROs might be applied will be developed but gives no consideration to the complexity of doing this;
- If similar methodology was adopted as in the selection of protected areas and which NatureScot now uses to establish whether Sites of Special Scientific Interest, for example, are in un/favourable conditions this is likely to be incredibly labour-intensive process. It is also likely to be unworkable given current resource constraints. The proposed process as described substantiates these concerns: "There would be a defined and transparent process for selecting an area for a DMNRO, including publication of assessment material, consultation with interested parties and Ministerial approval. There would also be an appeal process which we expect would mirror the appeals process if NatureScot were to intervene using existing powers, and this would be a statutory appeal to the Scottish Land Court".
- As proposed the criteria are self-contradictory. DMNROs "can only be ordered where there is social, economic or environmental benefits to be achieved through nature restoration". In other words nature restoration itself is insufficient. Why then call them DMNROs? This wording appears to have been lifted from the DWG report where it is was being used to make a rather different point, that control is needed not just because of damage to the natural heritage but because of other interests. With various landed interests claiming a reduction in deer number would harm the rural economy and social fabric "wrongly in my view but they are still claiming it" this proposal as worded would make DMNROs very hard to enforce.
- It is also not clear why the Scottish Government believes DMNROs would be any more effective than the powers NatureScot already has, including those under Sections 7 and 8 of the Deer (Scotland) Act 1996 but also other powers available to it such as Nature Conservation Orders. Those powers have almost never been used. The Report of DWG recommended the

Environment, Climate Change and Land Reform Committee of the Scottish Parliament should instigate a short inquiry into why NS had not used its powers in relation to Caenlochan (where voluntary S7 Agreements have been in place for years at great cost and very little effect) but this has never happened. The Scottish Government in its response to that recommendation said this was a matter for the Committee BUT given they have not acted on the recommendation, it would now appear beholden on the Scottish Government to do so. This would help ensure that any new powers are workable and are likely to bring about the desired changes.

In short, the risk is the DMNRO proposal will introduce lengthy, costly and bureaucratic processes open to legal challenge with little guarantee of positive outcomes. It would be far better to adopt a standard across Scotland of a maximum of 2 deer per square kilometre (where there are no sheep and less than that where there are) and require all land-holdings above 50 ha to produce Deer Management Plans ([see here](#)). We know that only when deer are reduced to 2 per square kilometre nature starts to recover.

Elsewhere in Europe there is far more effective control of deer than in Scotland as a result of fundamentally different laws on hunting, which makes control of deer a community responsibility rather than a privilege of private land-owners. Generally, communities then set targets for numbers and culls which allow other forms of land-use include "nature" to thrive. As a result in countries like France most tree establishment in forestry is through natural regeneration and takes place without any need for forest fencing. Our system hunting in Scotland allows sporting estates to transfer the costs of deer management onto other forms of land-use with disastrous consequences. DMNROs would not be necessary on the continent and we need to question whether a different approach would not be more effective here.

## **Compulsory Powers and Compliance**

The proposals in this section are basically designed to implement recommendations of the Deer Working Group to tweak/fine-tune the existing legal framework to make it more effective. From that perspective they all appear reasonable and would represent an improvement on the current situation. It is unlikely, however, that taken alone they will be sufficient to deliver the changes the Scottish Government wants to see, even if current targets are accepted.

In respect of the proposal to improve data, it is important to note that Deer Management Groups are not at present keeping information and plans they are current expected to produce up to date. Indeed, the quality of data and information publicly available has gone steadily downhill in the last decade and that appears unlikely to change unless there are more far-reaching reforms.

## **Deer Welfare**

The Deer Welfare proposals are basically designed to ensure people killing deer do so in a humane manner. That is something almost everyone will support.

However, it is worth noting how this fits with the Scottish Government's current approach to animal welfare which is haphazard to say the least and reflects the continued power and influence of sporting interests. To give one example, while the recently passed Wildlife Management and Muirburn Bill will make snares illegal, foxes are not afforded the same level of welfare protection as red deer and there were no proposals in that bill requiring those wishing to shoot foxes to be on a Fit and Competent Persons register. Similar hypocrisy applies to the succeeding clause on close seasons for hind: if close season are justified for hinds on welfare grounds, why not for foxes?

The proposals grouped under this heading could also have unintended consequences by making it much harder for small landowners, such as crofters, owners of small areas of woodland or indeed people with large gardens to control deer than at present. Few of these interests are likely to have either the time or money to meet the requirements of the Fit Persons register without financial support. It is therefore of crucial importance that the Scottish Government consults those interests and then produces a costed plan of how it will help them meet the requirements. Otherwise, the risk is we come even more dependent on the large stalking estates to reduce deer numbers when the evidence shows they are the least likely landowners to want to do this.

The option in the consultation to ban the use of shotguns to kill deer should be rejected. While it is recognised that shotguns are a less humane means of killing deer than rifles, small landowners are unlikely to own rifles or be able to meet the requirements for their use. Because of this the Deer Working Group did not include any recommendation to ban shotguns – just that generally they were better not used – and neither did the Scottish Animal Welfare Committee when commenting on the DWG recommendations. It is strange therefore that the Scottish Government has consulted on this but if they really want the need for small landowners to use shotguns the answer is to reduce deer density across Scotland to 2 per square km. While deer numbers are allowed to remain as high as 10 per square km on open hill ground damaging incursions onto smaller land-holding are inevitable. Small-holders should not have to fence their properties, including gardens, to keep deer out and should have a right to protect their properties against damage caused by deer.

## **Changes to close seasons**

The Scottish Government's implementation of the recommendation of the DWG to abolish the close seasons for stags last year was welcome although taken alone its impact will be limited because the more pressing issue is to reduce numbers of hinds <https://parkswatchscotland.co.uk/2023/06/24/red-deer-and-the-natural-environment-what-differences-will-the-changes-to-the-legislation-make/> .

Instead of adopting the recommendations of the Deer Working Group to change the closed season for shooting hinds of all species of deer to • 1st to 15th April (inclusive) and end on a date in the period 31st August to 15th September (inclusive) • is proposing the closed season should run from 31<sup>st</sup> March to 30<sup>th</sup> September. The consultation states this is a result of recommendations from the report of the Scottish Animal Welfare Committee, which it asked to consider the DWG proposals. The SAWC report ([see here](#)), however, did not actually recommend these changes.

It appears therefore that the proposed changes may have come because the Scottish Government is fearful of the Scottish Gamekeepers who have recently announced they are boycotting the whole

consultation because of their concerns about shooting pregnant hinds (as far as I am aware the SGA has not shown similar concerns about shooting vixens). Whatever, the reason the new closed season as proposed will make reduction in deer numbers far harder. This is evidenced by the various quotes the Scottish Government has included in the consultation from bodies by other landowning organisations, e.g. "It is clear that shooting female deer is the solution to population control and culling male". The dates recommended by the DWG should therefore be adopted.

The whole rationale behind closed seasons as a means of protecting the welfare of hinds and their offspring, however, merits further review. The intention is to protect hinds during the last stages of pregnancy and their young while they are dependant on them. However, there is now good evidence to show that where deer numbers are high the number of still-births and mortality among red deer calves increases dramatically. In such circumstances, it makes no rational sense to make it unlawful to shoot a hind that has lost its calf. The difficulty, of course, is establishing which hinds have calves and which may have lost them. That could potentially, however, be addressed over time through the fit and competent persons register i.e. people with the training, knowledge and time to establish whether hinds had calves could be allowed to shoot those without during what would become a "controlled" rather than "closed" season.

## **Venison**

The Deer Working Group recommended better information on venison distribution was needed to address barriers to consumption. The Scottish Government in these proposals has proposed scrapping that Venison Dealers License on the grounds that considerations such as hygiene could be met through the Food Standards Scotland's others system but in doing so has scrapped the proposals to collect more data so supply chains could be improved. This appears incoherent and self-contradictory: what is needed is a system which delivers both.

## **Kept and Farmed Deer**

This section concerns farmed or kept deer and their potential impact on the natural environment and the proposal that deer farmers should require a license to do so seems sensible (and indeed could and should be part of a system to provide better information about venison supply chains).

There is no mention of reindeer despite the damage that some escapes are now causing in parts of the Cairngorms, an omission that should be rectified. It is also anomalous that while it is proposed the release of red and roe deer should require authorisation, other species are not covered.

The Deer Working Group made several recommendations about the need to control non-native species of deer. Yet while the Scottish Government has recognised the Muntjac are now moving into Scotland and if that is not stopped now will have far greater costs down the line, there is nothing in the proposals that would make it easier for NatureScot to control or eliminate non-natives species. That needs to be rectified. There seems no reason, for example, that people on the fit and competent persons register should not have a statutory duty to report non-native species and to cull them where possible.

## Conclusion

Given the shortcomings in the recent Wildlife Management and Muirburn Bill, which means that damage to nature and climate will be allowed to continue over the large part of Scotland that is managed for driven grouse shooting in the short-term ([see here](#)), it is absolutely essential that the Scottish Government takes a more radical approach to deer, whatever the discomfort this causes to the owners of sporting estates managed for deer stalking. That means revising current targets for deer density down from 10 to 2 per square km and creating new methods of statutory deer control learning from the experience abroad. The proposals in this consultation, while representing a step forward in certain respects, will not deliver that.

## Category

1. Cairngorms
2. Loch Lomond and Trossachs
3. Other parts Scotland

## Tags

1. climate change
2. conservation
3. Deer
4. NatureScot
5. Scottish Government

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