

Wildlife Management and Muirburn (Scotland) Bill: use of snares and powers of Scottish SPCA inspectors Consultation

August 2023

Contents

Responding to this consultation	3
Introduction	5
Overview	5
Part 1: Use of snares in Scotland.....	6
Overview	6
Review of snaring	6
Scottish Government Proposals	8
Part 2 – Extension of power for the Scottish SPCA to investigate wildlife crimes	10
Overview	10
Scottish SPCA Taskforce	10
Scottish Government proposals	11
Annex A	13
Annex B	15
Section 1 - Snaring	15
Section 2 – Powers of Scottish SPCA Inspectors	17
Section 3 – Evaluation	19

Responding to this consultation

We are inviting responses to this consultation by 3rd October 2023. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at [Citizen Space](#).

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 3rd October 2023.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

Wildlife Management: use of snares and powers of Scottish SPCA inspectors in Scotland
Consultation 2023
Wildlife Legislation Team
The Scottish Government
Area 3H-S
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using Citizen Space, you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document in either pdf or word format, submitted responses in other formats may not be accepted. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under this Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses may be made available to the public at [Citizen Space](#). If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses may be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to wildlifemanagement2023@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online on [Citizen Space](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Introduction

This consultation is seeking views on topics related to wildlife management and the Wildlife Management and Muirburn (Scotland) Bill.

It is set out in 2 parts. Part 1 relates to the use of snares and cable restraints in Scotland and Part 2 addresses matters relating to the powers of Scottish Society for the Protection of Cruelty to Animals (“Scottish SPCA”) inspectors. You can complete both sections in the consultation or only the section which is of interest/relevance to you.

This consultation supplements our previous consultation on wildlife management - [Wildlife Management in Scotland: A Consultation \(www.gov.scot\)](#) which closed on 14 December 2022.

Overview

The Wildlife Management and Muirburn (Scotland) Bill (the “Bill”) was introduced to the Scottish Parliament on 21 March 2023.

In autumn 2022 the Scottish Government consulted on a range of proposals to be included in the Bill. The analysis of the responses to the Wildlife Management in Scotland consultation (the “consultation”) was [published on 3 April 2023](#).

While this consultation included some questions on the use of snares in Scotland, the consultation paper noted that “...[the Scottish Government] may undertake further consultation on additional proposals to amend the legislation governing the use of snares, at a later date.”

It also noted that:

“Through an independent taskforce, [the Scottish Government will] consider whether the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) should be given extra legislative powers to investigate wildlife crime. This group will report before the end of 2022...Depending upon the recommendations of the review we may include provisions relating to the powers of Scottish SPCA in the Wildlife Management (Grouse) Bill, in which case a separate consultation with interested parties will be undertaken.”

We are now seeking your views on these matters.

Part 1: Use of snares in Scotland

Overview

For the purpose of this consultation a “snare” or “cable restraint” means a thin wire noose used for catching and/or restraining a wild animal, such as a fox or a rabbit, for the purpose of wildlife management.

The use of traps and snares to manage wildlife is governed by the Wildlife and Countryside Act 1981 (the “1981 Act”). That Act 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 must be made available to Police Scotland on request.

The Scottish Government recognises that there is the potential for snares to cause significant injury, prolonged suffering and death to wildlife. There is also a risk that non-target wildlife species and pet animals such as cats and dogs can be caught in them.

However, snares can be a useful tool needed for the control of some species, such as rabbits and foxes in order to protect livestock and agriculture.

Many animal welfare groups have called for snares to be banned on animal welfare grounds and in May 2022 the British Veterinary Association (BVA) and the British Veterinary Zoological Society (BVZS) published a [paper setting out its policy position on snaring](#). After considering the available evidence they concluded that:

“In light of the above evidence, we call for an outright ban on the use and sale of snares. We consider that there are sufficient alternative means of prevention and deterrence and lethal control available, including cage trapping and shooting, such that there is no justification for the use of snares even under a licensing regime. A ban should encompass the use of homemade snares.”

And recommend that:

“The UK Governments should introduce an outright ban on the use and sale of snares to both the general public and trained operators.”

However, some land management groups argue that their continued use should be allowed on the basis that they are an essential tool needed for the control of some species, such as rabbits and foxes, in order to protect livestock and crops and to tackle biodiversity loss by protecting vulnerable species such as ground nesting birds.

Position in the rest of the UK and Europe

The use of snares is currently permitted in England, Northern Ireland and Wales, subject to certain conditions laid out in their applicable legislation. However, on 27 June 2023 the Welsh Parliament passed the Agriculture (Wales) Bill. The Bill makes it an offence for any person to use a snare or any other cable restraint to capture a wild animal.

Review of snaring

Reflecting the importance of the discussions around snaring, under section 11F of the Wildlife and Countryside Act 1981 the Scottish Government is required to undertake a review of the regulations governing snaring every 5 years. The last statutory review was completed in February 2022 and the report and recommendations were published on the [Scottish Government website 1st April 2022](#).

We sought views on the recommendations of the Statutory Review of snaring in our 2022 consultation, therefore we are not asking for your thoughts on the findings of the Statutory Review of snaring in this consultation.

During General Question Time at the Scottish Parliament on 25 November 2021, the then Minister for Environment and Land Reform, confirmed in response to a question from Colin Smyth MSP in relation to the Grouse Moor Management Review Group recommendations, that the Scottish Government would extend the scope of the snaring review to include a potential ban on snares in Scotland.

Following this announcement, we asked the Scottish Animal Welfare Commission (“SAWC”) to provide us with their views on the welfare implications of snaring. We also asked the Rural Environment and Land Management Group (“RELM”) to provide us with their views on the implications of a ban for land management practices.

SAWC conclusion and recommendations

The conclusions and recommendations from the SAWC report are set out below:

“Wild mammals and birds are known to be sentient and capable of experiencing pain and other negative sensations. Any traps that do not instantly kill or render them irreversibly unconscious are likely to impact their welfare. Therefore, the use of snares in the lethal control of terrestrial mammals raises significant welfare concerns. Non-target species caught in snares will also suffer and may die, often very slowly. Neonates and juveniles may starve to death, if traps catch an adult on which they are dependent within their breeding season.

“SAWC concludes that snares cause significant welfare harms to members of both target and non-target species.”

“SAWC recommends that the sale of snares and their use by both public and industry are banned in Scotland, on animal welfare grounds.”

The full report has been published on the Scottish Government website and can be found here – [Scottish Animal Welfare Commission - snaring: position paper.](#)

Summary of RELM recommendations

The summary findings of the RELM report are set out below:

- “Technical adjustments to cable restraints including safety stop positioning, double swivels and breakaway sections now considerably reduce welfare risks
- “The Wildlife and Natural Environment (Scotland) Act 2011 has accelerated behavioural change including more selective use and siting of snares and reduction of the time during which they are deployed
- “The Act has prompted novel use of mobile technology to improve record-keeping and use of information gathered during checks. We suggest that use of this facility is at least given fair chance to assess changes to welfare, record-keeping, and incident statistics.
- “Significant concern regarding the conservation status of emblematic Scottish bird species means that all current, legal forms of predator control must be retained for the time being if we are to assist their recovery
- “Data on incidents and prosecutions suggests a steady decline since changes introduced by the Wildlife and Natural Environment (Scotland) Act 2011.
- “Nevertheless, this information can be further improved to understand and isolate problems.
- “It would be illiberal to remove snaring without better insight and objective assessment of any concerns relative to the public good deriving from species conservation.”

The full report has been published the Scottish Government website and can be [found here](#).

Scottish Government response to the extended review of snaring

In its response to the wider review of snaring, the Scottish Government announced that it would bring forward amendments at Stage 2 of the Wildlife Management and Muirburn (Scotland) Bill to ban the use of snares.

The Scottish Government recognises that control of predators is sometimes necessary in order to protect vulnerable species, as well as livestock and agriculture, and that land managers should be allowed to take action to effectively manage wildlife for these purposes.

However, we believe that there is sufficient evidence to show that use of snares can lead to unacceptable levels of suffering for wild animals. Further, even where snares are used in strict accordance with the conditions set out in the 1981 Act, they remain, by their nature, indiscriminate and as such they pose an unacceptable risk to non-target species including other wildlife and domestic species such as cats.

The Scottish Government is satisfied that other, more humane and efficient methods of predator control such as shooting and trapping are available to land managers and that a ban on the use of snares would not prevent them from undertaking necessary wildlife management.

Banning the use of snares will ensure that the Scottish Government continues to meet its commitments to uphold the highest standards of animal welfare.

Scottish Government Proposals

Section 11 of the 1981 Act currently states that it is an offence if any persons:

“(a) sets in position or otherwise uses any self-locking snare or a snare of any other type specified in an order made by the Scottish Ministers;

(aa) sets in position or otherwise uses any other type of snare which is either of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it;”

The maximum penalty for these offences is, on summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both), and on conviction on indictment, imprisonment for a term not exceeding 5 years or a fine (or both).

We are proposing to amend the 1981 Act to:

- Prohibit the use of a snare or other type of cable restraint for the purpose of killing or trapping a wild animal; and
- Prohibit the use of a snare or other type of cable restraint in any way that is likely to injure a wild animal.

Section 11 of the 1981 Act also sets out that:

“Subject to the provisions of this Part, any person who—

(a) is, without reasonable excuse, in possession of; or

(b) sells, or offers or exposes for sale,

a snare which is capable of operating as a self-locking snare or a snare of any other type specified in an order under subsection (1)(a) shall be guilty of an offence”.

At this time, while we will keep this under review and will continue to discuss with key stakeholders, we are not proposing to include in this bill to make it an offence to possess or sell any other type of snare other than those already prohibited under section 11 of the Act.

This is because many snares that are set are made by practitioners using readily available materials and therefore a ban on the sale of snares will have a limited affect.

We are also aware that some types of permitted snares and cable restraints may be used for purposes that don't include the trapping and killing of a wild animal. Therefore a full ban on the sale of such items may have unintended consequences for activities not within the consideration of this Bill.

Part 2 – Extension of power for the Scottish SPCA to investigate wildlife crimes

Overview

The Animal Health and Welfare (Scotland) Act 2006 (“the 2006 Act”) provides for the welfare of animals controlled by man on a permanent or temporary basis. Section 49 of the 2006 Act includes provision for Scottish Ministers or Local Authorities to appoint inspectors.

The Scottish Ministers currently use these provisions to authorise Scottish SPCA staff as animal welfare inspectors so that, on completion of the relevant training, they can do the following:

- Without a warrant:
 - enter non-domestic premises, for the purpose of taking possession of a suffering animal, if the inspector believes immediate entry is appropriate in the interests of the animal;
 - enter non-domestic premises, to search for and seize any evidence (including animals) as evidence in relation to a “relevant offence,” if they believe that any delay caused by seeking a warrant would frustrate the purpose of that search;
 - enter and inspect any non-domestic premises, for the purpose of ascertaining whether or not an offence under Part 2 of the 2006 Act has been committed.
- With a warrant:
 - enter any premises, for the purpose of taking possession of a suffering animal or destroying an animal (where appropriate);
 - enter any premises, to search for and seize any animal or other thing as evidence in relation to a “relevant offence” under Part 2 of the 2006 Act.

A “relevant offence” is one that relates to unnecessary suffering, mutilation, cruel operations, administration of poisons, animal fights, ensuring the welfare of animals that you are responsible for, abandonment and breaching a disqualification order.

Part 2 offences include all “relevant offences” and those relating to breaches of care notices or regulations (made in relation to the welfare, activities involving certain animals or the keeping of certain animals), sale of animals to children and the offering of animals as prizes.

This means that Scottish SPCA inspectors can use their powers of entry to any land or premises, including domestic premises with a warrant, only in a limited set of circumstances. They can gain entry to ascertain if a Part 2 offence has been committed, to take possession of animals if it is in the interest of the animal and to seize evidence of “relevant offences”.

The Scottish SPCA has an administrative arrangement with the Crown Office and Procurator Fiscal Service to ensure that reports submitted to the Procurator Fiscal contain the appropriate information to enable effective prosecutions. The Scottish SPCA and other bodies with similar administrative arrangements, such as SEPA, are known as Specialist Reporting Agencies. The Scottish SPCA does not hold any legal power in relation to reporting to the Procurator Fiscal. All decisions relating to whether to prosecute or not in any case that is reported are taken solely by the Procurator Fiscal. There is no proposal to change this position in any way

Scottish SPCA Taskforce

It is widely accepted that wildlife crime is difficult to detect and investigate and that this leads to difficulties in mounting prosecutions and convicting those responsible. These crimes often occur in remote locations where there are few or no witnesses. When incidents are discovered, it is often impossible for police officers to attend the scene quickly and delays increase the likelihood of any evidence being destroyed – either deliberately or simply as a result of exposure.

During the passage of the [Wildlife and Natural Environment \(Scotland\) Act 2010](#), the Scottish Parliament debated an extension of powers for the Scottish SPCA that would allow them to investigate a greater number of suspected wildlife crimes.

Amendments were tabled at both Stage 2 and Stage 3 of the Bill but were withdrawn. The Scottish Government made a commitment to seek views on the subject and in 2014 the Scottish Government consulted on proposals to extend the powers of [Scottish SPCA inspectors to investigate wildlife crime](#).

The [analysis of the consultation responses](#) was published on 22 January 2015

At that time, the Scottish Government decided to take no further action. However, the question was raised again during the passage of the [Animal and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#) and the then Minister for the Environment and Land Reform committed to establishing an independent taskforce to undertake a review on whether the Scottish SPCA should be given specific powers should be given specific powers, through legislation, to allow them to investigate wildlife crime, including entering land without a warrant.

In June 2023 the Scottish Government published the Taskforce report, the [taskforce recommended](#) that further partnership working between the Scottish SPCA and Police Scotland should be taken forward.

The Scottish Government [agreed with that recommendation](#), however having considered the report in detail, proposed that further limited powers for SSPCA inspectors should be provided.

Scottish Government proposals

Our proposal is to provide Scottish SPCA inspectors who are acting under their existing powers under the 2006 Act, as set out in above, with additional powers to search, examine and seize evidence in connection with the following offences:

Wildlife and Countryside Act 1981

- section 1 (protection of wild birds, etc),
- section 5 (prohibition of certain methods of killing or taking birds),
- section 6 (sale, etc. of wild birds),
- section 7 (registration of certain captive birds),
- section 8, (protection of captive birds),
- section 9 (protection of certain wild animals and prevention of poaching),
- section 10A (protection of wild hares),
- section 11 (prohibition of certain methods of taking wild animals),
- section 11G (prevention of poaching: wild hares, rabbits, etc),
- section 11 (sale, possession, etc. of wild hares, rabbits, etc),
- section 12A (requirements for use of traps),
- section 12F (authorisation from landowners etc. to use traps),
- section 15A (possession of pesticides)

Wildlife Management and Muirburn (Scotland) Bill 2023,

- Section 1 (offence of using a glue trap),
- Section 2 (offence of purchasing a glue trap).

The additional powers could only be exercised when an inspector is already responding to a case using their existing powers under the 2006 Act.

For example, as the law currently stands, a Scottish SPCA inspector who is responding to a case of a live animal caught in an illegally set trap, is not able to seize any other illegal traps in the immediate vicinity which don't contain live animals or search the area for evidence of other illegally set traps. Under our proposals, in these circumstances an inspector would have the power to seize the illegally set traps and search for evidence of other illegally set traps in the vicinity.

These powers would only be given to an inspector appointed by the Scottish Government under section 49(2)(a) of the Animal Health and Welfare (Scotland) Act 2006 and each inspector would be separately and individually authorised by the Scottish Government in connection with the new powers. The power conferred on a local authority under section 49(2) of the 2006 Act will be left unchanged.

All inspectors would be required to undertake specified training prior to being given authorisation to exercise the new powers. Authorisations could be withdrawn at the discretion of the Scottish Government.

Police Scotland will retain primacy over investigation of wildlife cases including offences under the 1981 Act and the Wildlife Management and Muirburn (Scotland) Bill 2023. In addition to the additional training requirements for Scottish SPCA inspectors, protocols will be established between the Scottish SPCA and Police Scotland, to ensure effective partnership working, and to clearly set out the role of the Scottish SPCA within the limit of these powers.

Under our proposals Scottish SPCA inspectors **would not** be given the powers to stop and search people or powers to arrest people suspected of committing a wildlife crime.

Annex A



Scottish Government
Riaghaltas na h-Alba
gov.scot

Respondent Information Form

Wildlife Management and Muirburn (Scotland) Bill: use of snares and powers of Scottish SPCA inspectors

Please Note this form **must** be completed and returned with your consultation response.

To find out how we handle your personal data, please see our privacy policy:

[Privacy - gov.scot \(www.gov.scot\)](http://www.gov.scot/privacy)

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Organisation's Sector

- Animal Welfare
- Land Management, including representative bodies
- Sporting Organisation, including representative bodies
- Conservation, including representative bodies
- Public Body
- Law Enforcement
- Other, please specify

Phone number

Address

Email

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published. If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Annex B



Scottish Government
Riaghaltas na h-Alba
gov.scot

Section 1 - Snaring

1. Do you agree with our proposals to amend the Wildlife and Countryside Act 1981 Act so that it is an offence to:

a) use a snare or other type of cable restraint for the purpose of killing or trapping a wild animal and;

b) use a snare or other type of cable restraint in any way that is likely to injure a wild animal

Yes No Unsure

Please provide the reasons for your response here (maximum 250 words).

2. Do you think that the Scottish Government should consider allowing an exception for the use of snares for the live capture of mammals for research purposes for example, catching foxes to allow tracking devices to be fitted?

Yes No Unsure

Please provide the reasons for your response here (maximum 250 words).

3. If you answered yes question 2, do you agree than anyone using snares for this purpose would require a licence from NatureScot.

[NatureScot](#) are Scotland's nature agency. They work to improve the natural environment in Scotland so that nature in Scotland is maintained and enhanced. They currently manage a [wide range of licensing schemes](#) in Scotland, including non-native species licensing and muirburn licensing.

Yes No Unsure

4. Other than for the purpose set out in question 2, are there any other purposes for which you think an exemption should be available to allow a person to use a snare or cable restraint to temporarily capture a wild animal?

Yes No Unsure

Please provide the reasons for your response here (maximum 250 words).

Section 2 – Powers of Scottish SPCA Inspectors

5. Do you agree with our proposal to provide Scottish SPCA inspectors who are acting under their existing powers under the 2006 Act, with additional powers to search, examine and seize evidence in connection with specific offences under the Wildlife and Countryside Act 1981?

The specific offences are:

- section 1 (protection of wild birds, etc),
- section 5 (prohibition of certain methods of killing or taking birds),
- section 6 (sale, etc. of wild birds),
- section 7 (registration of certain captive birds),
- section 8, (protection of captive birds),
- section 9 (protection of certain wild animals and prevention of poaching),
- section 10A (protection of wild hares),
- section 11 (prohibition of certain methods of taking wild animals),
- section 11G (prevention of poaching: wild hares, rabbits, etc),
- section 11 (sale, possession, etc. of wild hares, rabbits, etc),
- section 12A (requirements for use of traps),
- section 12F (authorisation from landowners etc. to use traps),
- section 15A (possession of pesticides)

Yes

No

Unsure

Please provide the reasons for your response here (maximum 250 words).

6. Do you agree with our proposal to provide Scottish SPCA inspectors who are acting under their existing powers under the Animal Welfare Act 2006, with additional powers to search, examine and seize evidence in connection with specific offences under the Wildlife Management and Muirburn Bill.

The specific offences are:

- Section 1 (offence of using a glue trap),
- Section 2 (offence of purchasing a glue trap).

Yes

No

Unsure

Please provide the reasons for your response here (maximum 250 words).

7. Do you agree with the limitations and conditions placed on these proposals set out below?

- these powers would only be given to a Scottish SPCA inspector appointed by the Scottish Ministers under section 49(2)(a) of the Animal Health and Welfare (Scotland) Act 2006;
- inspectors would be individually authorised by the Scottish Government and that Authorisations could be withdrawn at the discretion of the Scottish Government;
- all inspectors would be required to undertake specified training prior to being given authorisation to exercise the new powers.

Yes No Unsure

Please provide the reasons for your response here (maximum 250 words).

Section 3 – Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published).

8. How satisfied were you with this consultation?

- Very dissatisfied
- Slightly dissatisfied
- Neither satisfied nor dissatisfied
- Slightly satisfied
- Very satisfied

Please enter comments here

9. How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?

- Very dissatisfied
- Slightly dissatisfied
- Neither satisfied nor dissatisfied
- Slightly satisfied
- Very satisfied
- Not applicable

Please enter comments here



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-233-2 (web only)

Published by The Scottish Government, August 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1340102 (08/23)

W W W . g o v . s c o t